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A. No.

Q. And, like the Dong situation, you're not aware of any wrongdoing on the part of Santander in connection with the Freire transaction; correct?

A. Absolutely not.

Q. Are you aware generally of how a financing transaction happens? Let me ask it a better way: During the course of a transaction with a customer, are you aware of when a lender becomes involved?

A. Yes.

Q. When does the lender become involved?

A. When submit the deal, and Santander send an approval. And the finance guy, he is structure the deal with the customer, and the customer sign the contract and send it to the bank.

Q. Now I'm asking you generally about any lender, not just Santander.

A. Same thing.

Q. So it's your understanding, then, that a customer comes into a dealership?

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A. Yes.

Q. And talks to a salesperson, negotiates -- if the customer is interested -- with either the salesperson or with the F&I guy?

A. Correct.

Q. They come together on terms of the sale price?

A. Yes.

Q. And at that point they submit financing requests and the underlying documents to the lender; is that correct?

A. Correct.

Q. Prior to when that happens, when the F&I guy or the sales guy sends over the paperwork to the lender, it's correct that the lender is not involved in the negotiation of the terms; correct?

A. No.

Q. The lender does not get involved in marketing and advertising to customers; is that correct?

A. No.

Q. The first time that the lender

gets involved is after the negotiation and discussions have occurred -- between the salesperson and the customer, and the F&I person and the customer?
A. Correct.
Q. And then the lender gets the paperwork?
A. Correct.
Q. And that paperwork is a credit application; correct?
A. Credit application.
Q. And is it also a buyer's order?
A. Buyer's order.
Q. What else gets sent to the lender?
A. Driver's license and the installment contract.
Q. The retail installment contract?
A. Correct.
Q. And those are signed by the customer?
A. Signed by customer.
Q. And filled out by the customer, with respect to the credit application?
A. Yes.

Q. All the information is filled out and it's sent off to the lender?
A. And Santander used to be -- to make interview with the customer.
Q. I will get to Santander in a minute.
A. Okay.
Q. I'm just talking about generally.
A. Yes, generally.
Q. And that all gets filled out, and the lender is not involved in filling out that information?
A. Correct.
Q. And then the lender gets the information and decides whether to purchase the retail installment contract and fund the transaction?
A. Correct.
Q. Is that correct?
A. Mm-hmm.
Q. And you indicated that Santander required an interview with the customer?
A. With the customer, yes.
Q. Does that occur before or after

the funding occurs?

A. No, after the customer taking the car. Before the funding.

Q. But after the customer has taken the car --

A. We verify with the customer everything is okay, you driving the car, you have the car, anything wrong, this, this, this. They say it's fine, everything is fine, then it's funded.

If they not -- if they cannot get to the interview, then they don't fund it.

Q. What is your understanding of that; how do you know that that's the procedure?

A. Because I know very good when the car is not funded, then the customer not make interview with the bank.

Q. Do you follow up to make sure that those interviews have occurred, or is that not your job?

A. If I see this car not funded, I go to ask in the F&I guy, ask him why is the car not funded.

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Q. Do you recall that happening in connection with Santander at all?

A. He -- he is the connection with Santander.

Q. Do you recall that ever happening, in which funding didn't occur because the interview had not happened?

A. Sometimes they return the contract.

Q. And that is Santander?

A. Yeah, because they cannot reach the customer.

Q. Do you know if Santander made demands for indemnification in these cases; Freire and Dong? Have you ever seen any demand letters?

A. Demand letters?

Q. Yes.

MR. BRENER: I will mark them.

(Multipage document, the top page being a letter on letterhead of LeClair Ryan, dated March 14, 2014, is marked as Defendant's Exhibit B for identification, as of this date.)

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(Letter on letterhead of LeClair Ryan, dated June 23, 2014, Document is marked as Defendant's Exhibit C for identification, as of this date.)

(A brief recess is taken.)

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Q. Let me show you what has been marked as Exhibits B and C.

MR. SIMON: These were sent to Bruce; they were sent to New York Motor Group in care of Bruce, Bruce got both these.

Q. The outstanding question is: Have you seen these documents before? Take a look at them.

MR. SIMON: The demand letters, and that is his law firm. Do you see?

A. I never see this.

Q. Either one; either B or C?

A. Not this one here. [Indicating.]

Q. That's different, hold on. You looked at Defendant's Exhibit C, which references the Dong case. And you have also not seen Defendant's Exhibit B, which represents the Freire case.

A. I never see these, either one.

MR. SIMON: Just so the record is clear, both B and C are two-page letters from the law firm of LeClair Ryan, signed by Mr. Brener. Exhibit C is just a two-page letter. B is a two-page letter and it has an exhibit attached to it, what has been marked as Exhibit A previously.

MR. BRENER: I think Defendant's Exhibit C also referenced the contract -- it may not be in that exhibit, but it was sent as well. It just doesn't have a copy attached to it. But if you look at the letter, it references the contract as well.

MR. SIMON: Yes. To define this, C references the Dong lawsuit, and B references the Freire lawsuit.

MR. BRENER: Right. To be clear, though, each letter references --

MR. SIMON: References Exhibit A.

MR. BRENER: Yes. And enclosed,

attached, as well.

MR. SIMON: Right.

Q. You have not seen those before?

A. No. Can I get a copy of these?

Q. I will get you a copy.

A. Okay, no problem.

MR. SIMON: Minsky has these.

Q. Mr. Minsky signed both on behalf of New York Motor Group and Planet Motor Cars, but you have not seen them.

Do you understand what demand letters are generally?

A. Not really.

Q. Those were demand letters sent by my law firm on behalf of Santander, referencing the contract that we just went through -- which is Defendant's Exhibit A -- citing provisions in the contract and seeking payment and indemnification from the dealership. That's what a demand letter is.

You did not receive that?

A. No.

Q. I'm not going to ask you if Mr. Minsky spoke to you about it, but you're

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not aware of demand letters coming from Santander to the dealerships?

A. No.

Q. Is that correct; you're not aware of that?

A. Yes.

MR. BRENER: If you need copies of those letters, I'm happy to give you copies of those.

THE WITNESS: Thank you.

MR. BRENER: I don't think I have any further questions at this point. I appreciate it. I may have a follow-up or two after other counsel ask questions. I appreciate your time. Thank you.

MR. LANE: Off the record.

(A discussion is held off the record.)

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CONTINUED EXAMINATION BY MR. LANE:

Q. Mr. Eltouby, it's Peter Lane again, as you recall. I'm counsel for Boris

Freire, Miriam Osorio and Zhenghui Dong. I just have some follow-up questions for you in relationship to some of the things that Mr. Brener just asked you.

You were at the deposition for Zhenghui Dong --

A. Yes.

Q. -- back in February?

A. Yes.

Q. And I believe I just heard you testify that at that deposition was the first time that you had heard that Zhenghui Dong accused New York Motor Group of forging a retail installment contract and assigning it to Santander?

A. Correct.

Q. Before that deposition, no one had ever told you that Zhenghui Dong had made that complaint?

A. No. I just only get her from DMV, that the girl she complained that she paid the car.

Q. So there was a DMV investigation --

A. Yes.

Q. -- about Zhenghui Dong?

A. Yeah, DMV. I sent to DMV already the bill of sale what I have, and installment contract. Then I don't hear from DMV. Then they come again. Then what happen is the lawsuit is coming, you know. The DMV come in and find out there's a lawsuit going on and then they back up.

Q. Did Nada, your daughter, ever tell you that Zhenghui Dong had come to the dealership and complained?

A. She tell they come a couple of time. She try to verify the verification with Santander to get the deal done.

Q. That's what Nada --

A. To get the deal funding. That's what I understand.

Q. That's what Nada told you?

A. This what he tell her and tell me.

Q. Who is "he"?

A. Julio.

Q. But after Julio left New York Motor Group, did Nada ever tell you that

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Zhenghui Dong had come in and complained that a contract had been forged -- or did she ever tell you that?

A. No.

Q. Did she ever tell you that Zhenghui Dong had come to the dealership and complained about the transaction?

A. No.

Q. Did she ever tell you that Zhenghui Dong came to the dealership and showed her two different retail installment contracts and one had a forged signature on it?

A. No.

Q. You never got any information like that?

A. Never.

Q. When did Nada stop working at New York Motor Group?

A. I think, in January 2014.

Q. After Nada left, were there any women who continued working in New York Motor Group's locations?

A. The place is closed, more or less it's closed, because we cannot operate with no

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Consumer Affairs license.

Q. You lost your Consumer Affairs license in January of 2014?

A. No. In November or December -- yeah, November.

Q. Were there any other women working in New York Motor Group besides Nada?

A. Some -- a girlfriend from Dewan.

Q. Dewan's girlfriend?

A. Yeah, Dewan's girlfriend.

Q. What did she do at New York Motor Group?

A. She was hanging out by him. She not working.

Q. Did she ever speak to customers?

A. Could be. I have no idea. I was not there.

Q. Did Nada ever tell you that Ms. Dong had come to the dealership and called the police?

A. No.

Q. Were you aware that Ms. Dong was at your dealership and called 911 and had the police come to the dealership?

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A. There was every day police over there. Was every day, this is from problem for -- from Mr. Estrada. People coming to find out the place is closed, and say "Where is Estrada? I want my money." Then they call the police. Every other day until I close the business. I say this not going on and on, this doesn't make any sense.

Q. Did Nada tell you every time the police came to New York Motor Group?

A. Not really.

Q. Were you curious that the police kept coming to New York Motor Group so much?

A. Yes.

Q. Did you look into what the police were doing at New York Motor Group?

A. I know very good this is everything that he did it wrong. When the people come and not see him over there, they asking for the money back. "I want my money back." Then we asking, "Which money?" We asking couple time, inform us, please, why are you coming here? Sometimes I come into the place, I see people sit down, waiting --

waiting for Mr. Julio Estrada only, you know. I ask them, "Why you guys waiting?" Then they say, "We have nothing. This is only waiting for Mr. Estrada." I say, "Okay, what's the problem?" They tell, "Okay. Mr. Estrada." All the time.

Q. After Julio Estrada left New York Motor Group, when people came to complain after he left, were there ever times that you were there?

A. No. Most of the time I was not there, because it's closed, the gate is down.

Q. But after Julio Estrada left, did you tell Nada that if people complained about Julio Estrada she should tell them that he no longer works there?

A. Yes.

Q. Did you give her any direction on what she should do to resolve the problems that people were coming to complain about?

A. No. We give them the phone number for Mr. -- what's his name? -- the DA. Driscoll.

Q. Detective Driscoll?

A. Driscoll.

Q. You would give people Detective Driscoll's phone number?

A. Yes.

Q. If a consumer came in and said to you, "Julio Estrada ripped me off" --

A. Correct.

Q. -- you would just give them the number for Detective Driscoll?

A. Yeah, because he take the money from them outside of the dealership and give them already contract -- like I told you, explained, DLR, like this contract. The bogus contract, you know.

Q. You would just give them Detective Driscoll's phone number?

A. Yes. Tell them to go contact the DA right away.

Q. Would you help them resolve the financial problems that they were complaining about?

MR. SIMON: This is asked and answered.

A. How?

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Q. I'm just asking, did you or didn't you; yes or no?

A. No.

Q. Before, when Mr. Brener was asking you about the transaction with Zhenghui Dong, you had indicated that once Santander funded the loan document that was assigned, the money from Santander was used to pay off Palisades?

A. Pay the cars.

Q. And pay the vendors for the after-sale products?

A. Yes, yes.

Q. Are you aware that Ms. Dong had previously paid over $13,000 in cash for the Civic?

A. No clue.

Q. You had no idea?

A. No idea. That's the reason the first time when I see her, I was big surprise.

MR. LANE: I would like to have this marked as Plaintiff's Exhibit 18.

(Document with the heading "Receipt," bearing the date of July 30, 2013, is marked as Plaintiff's

Exhibit 18 for identification, as of this date.)

MR. LANE: Let's mark this one too, as Exhibit 19.

(Document is marked as Plaintiff's Exhibit 19 for identification, as of this date.)

Q. I will hand you what has been marked as Exhibit 18.

A. Yes. This is a bogus.

Q. I didn't ask the question. What does that look like?

A. Somebody is making internet or computer receipt, write my name.

Q. Does it say "New York Motor Group" on the document?

A. Yes.

Q. With the address for New York Motor Group?

A. Yes.

Q. And it looks like it's a receipt for cash?

A. No. I not give a receipt for cash.

Q. I'm asking you: Does it look like it's a receipt for cash?
A. It's written here, "Receipt."
Q. Is New York Motor Group's address on the receipt?
A. Yes.
Q. Thank you.
A. Anybody can do this. What does it say, the initial of the guy here receive it, and paid or something. If you make a receipt like this on the computer, this is gonna be exactly the records? I never give customer receipt like this.
Q. You never gave a customer a receipt like this?
A. Yes. This could be Julio's, that he was creating anything, and he do it, exactly like the DLR.
Q. Okay. Did you have any idea that Julio Estrada was creating receipts like that?
A. No.
Q. If you had seen receipts like that, would you have done anything about them?
A. Sure. I gonna be asking first of

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all, first thing I gotta ask him for the money. Where is this money going? Who received the money?

Q. Are you testifying today that you never received any cash for Zhenghui Dong's transaction --

A. Zero.

Q. -- until Santander funded the loan?

A. Exactly. Correct. I'm telling you, he take advantage for people that not understand English.

Q. I will put Exhibit 19 in front of you as well. Can you take a look at that?

A. Installment contract.

Q. That's what you call a retail installment contract?

A. Correct.

Q. Who is listed as the seller on the retail installment contract?

A. It says New York Motor Group, yes.

Q. Who is the buyer on that contract?

A. Dong.

Q. Who signed that contract?

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A. I have no idea. I don't know the signature for the lady.

Q. Who signed the contract as the seller? Whose name is listed at the bottom of the contract as the seller?

A. Here?

Q. Not the signature, but the printed-out name of the seller.

A. New York Motor Group.

Q. Do you recognize the signature on the seller's line?

A. Yes.

Q. Whose signature is that?

A. This is -- what's his name? Angel.

Q. That is Angel's signature?

A. Yes.

Q. Have you ever seen this contract before; Exhibit 19?

A. No. Who is the bank here?

Q. I'm sorry?

A. Can you show me again?

Q. Sure, take a look.

A. It's not showing, it's not showing

the bank.
Q. There's no assignee listed at the bottom of the contract?
A. No. It's not showing what is the bank, what is the bank's name.
Q. At any dealership that you worked at, once an F&I representative gets a signed retail installment contract, where does the contract go?
A. To the bank.
Q. Do you keep a copy at the dealership?
A. Yes.
Q. Would Julio Estrada put the retail installment contract copies for the dealership in any particular file?
A. He keep the file with him until the deal gets funded.
Q. Until the deal gets funded?
A. Correct.
Q. You said previously -- if I'm not wrong -- that before Santander funded the deal, you had asked him --
A. Several times.

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Q. -- why it wasn't funded?

A. Why isn't this funded? He keep telling me it's not interview because the lady speak only Chinese, and they don't -- they can't -- understand, and they keep sending the contract back.

Q. If a bank sends a contract -- I'm sorry, you were going to say something?

A. Yes. Then I tell him, "Okay, bring the car back, and also get me my car back to the lot, because I don't receive any money. I'm out of the money and the car."

Q. If a bank returns a contract to the dealership, how does it return it?

A. Federal Express.

Q. So it physically mails the contact back to the dealership?

A. Yes.

Q. I think you said that you spoke to the district attorney about Zhenghui Dong's case?

A. After I was here, you know, after I get surprised when she say "It's not my signature," I speak with him. He refer me, tell me go to the precinct and to just tell them everything and make a report, you know, and then we add it to his case.

Q. Did you make a report?

A. I gotta go over there.

Q. So you have not made a police report?

A. Not yet, but I got to.

Q. When did the DMV contact you about Ms. Dong's case?

A. This is long time ago.

Q. In the winter of 2014?

A. In the beginning, yes, could be in the beginning.

Q. What did you do after the DMV contacted you about her case?

A. You know, I faxed the DMV all the paperwork I have in the file, and then he come to me and he tell me this is that she -- he tell me this is, she doesn't take a loan or something. I tell him, "Can you brought her here, that I can ask her or something?" He tell me that she not understand any word of English.

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Q. What did you do after that?

A. Then I surprise when I get a lawsuit right away, you know, and I say, what's going on? Then I called Bruce Minsky and tell him also, this lady, I cannot talk to her, I cannot communicate with her, I wish she can speak English so then I can see exactly what's the problem.

Q. Did you ask Bruce Minsky to help you negotiate anything with Zhenghui Dong?

A. Yes, yes. And she doesn't speak, hardly speak, English. This is the case, this is cut me already from, you know, they cut the dealership from Santander. Santander, when they find this, the legal department cut me right away, you know. Because she said, "This is not my signature."

I tried to, you know, to call them to communicate with them. This is a big, big company, you know. Who you can call? Who you asking? I asked the rep from the bank to help me, you know. They tell me it's out of my hands, it's from the top, from the legal.

Q. Who is the rep at the bank that

you spoke to?

A. Carl. His name is Carl.

Q. Carl, C-A-R-L?

A. Yes.

Q. Do you know his last name?

A. He's Korean guy.

Q. Did you ever meet him in person or you just spoke to him on the phone?

A. I speak with him on the phone. He come also to the place.

Q. Where does he work?

A. He's the rep.

Q. Do you know where his office is located, physically?

A. No. He's in the field. He go from dealer to dealer and see what's any problem with this and this, you know.

Q. When do you think you last spoke to Carl to try and resolve this with Zhenghui Dong?

A. After I get cut from them, I tell him is there anyhow that we can solve the problem? I don't know anything about the problem. And I try to -- you know very good

Julio Estrada was in jail, you know, or he get arrested or something and in the meantime I get also helpless, you know. I wish I can call the girl to speak with her. She not speak one word English.

Q. Did anyone contact you and tell you that Boris Freire was demanding to return the car and get a refund?

A. No.

Q. Nobody ever said that to you?

A. No. I don't know even what nationality he is. I don't even know what language he speak.

Q. But no one ever contacted you around November or December of 2013 and said that Boris Freire would like to return the car and just get a refund?

A. None.

Q. Do you remember finding out about Simon Gabrys's lawsuit?

A. Yes.

Q. How did you find out about Simon Gabrys's lawsuit?

A. Bruce. Bruce tell me.

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Q. After your attorney told you about Simon Gabrys's lawsuit, did you conduct any investigation into the papers for Simon Gabrys's transaction?
A. I not remember. He buy, I think, a Camry or something like this.
Q. If it will help your memory, I will let you know that he bought a Nissan of some kind. I don't remember what kind.
A. Nissan?
Q. Yes.
A. A Nissan Murano, maybe?
Q. I don't know. But did you look into the papers?
A. I don't really remember. I know not with the name, I know with the cars, you know, with the car make and the model. I feel the guy he bought this, then I remember him. I wish I see these people and I, you know, I speak with them and solve the problem.
Q. When did you find out about Zhenghui Dong's lawsuit?
A. Here.
Q. The lawsuit.

A. The lawsuit?
Q. Yes.
A. When I get from Santander cut.
Q. When did you get cut from Santander? I'm sorry if you already answered that question.
A. I think July -- June.
Q. Of 2014?
A. Yes.
Q. So you were cut from Santander in June 2014?
A. 2013 or '14. I not remember exactly if it's '13 or '14. I have to refresh my memory. What is the contract?
Q. I believe that the contract assigned to Santander was dated August of 2013.
A. August 2013, yes.
Q. So do you remember when you were cut from Santander?
A. To tell you exactly time, I have to go back and see exactly what.
Q. When you say that you were cut, did Santander stop doing business with you --
A. Correct.

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Q. -- at all dealerships that you worked at?

A. Correct.

Q. Including Planet Auto Group?

A. They don't have this bank at this time.

Q. At Hillside Motors?

A. I don't have this bank at Hillside.

Q. So at New York Motor Group?

A. No. Planet.

Q. Planet was the only one that had this?

A. Yes.

Q. But Planet was not in operation in 2014; isn't that correct?

A. Yes. The reason I'm telling you, I don't remember it's 2013 or '14, I don't know.

Q. When Planet cut you because of Zhenghui Dong --

MR. BRENER: Objection. I think you said it wrong. It's not "Planet." It's Santander.

MR. LANE: Thank you so much.
Q. When Santander cut you, when Santander stopped doing business with your dealerships, did you take any actions to review Ms. Dong's transaction?
A. Yes.
Q. You reviewed the file?
A. I called. I see the file, and I already sent it to the Motor Vehicle, all the paper -- I told you before -- and also I tried to contact Bruce and tell him this, why you not see what's a problem exactly. But I'm sorry to say Bruce is very busy.
Q. I see.
A. He never -- okay, don't worry, don't worry, and then put me on shelf.
MR. LANE: I don't really want you to tell me about your conversations with your lawyer.
Q. When you were answering Mr. Brener's questions just now, I believe you indicated -- and correct me if I'm wrong -- you indicated that Planet Motor Cars and Planet Auto Group are sister companies?

A. No. This is, okay, I corrected right away, in two minutes. I say two different identities.
Q. And then you also testified that your son had signed contracts with Santander?
A. Correct.
Q. Yet he had attempted to sign your signature on the contract?
A. Probably he did this without any, you know, obligation, because I'm his father, you know.
Q. How old was your son when he was signing these contracts with Santander?
A. At this time he was -- he was born 1978, and this was 2010. This mean he was 27 -- no.
Q. Thirty-two years old?
A. Thirty-two? Yes, yes, 32.
Q. Thirty-two years old?
A. Thirty-two.
Q. How long had he been working at Planet Motor Cars?
A. All of his life, you know. When he was -- he finished NYU, and he was working

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mortgage broker. Then he working for Acura, Manhattan Acura. Then he come and working for me.

Q. Did you tell him that he should be signing your name to contracts on behalf of Planet Motor Cars?

A. I never told him sign my name.

Q. Did you know that he was signing your name on the contracts?

A. No. I didn't know. I see -- the first time I see this.

Q. When Mr. Brener showed that to you just now was the first time?

A. I see the first time. I recognize right away this is not my signature.

MR. LANE: Do you have any follow-up after that?

MR. BRENER: I have no follow-up.

MR. LANE: Okay. I'm going to pass the witness. We will take a break and we will resume with Mr. Grossman.

(A discussion is held off the record. A brief recess is taken.)

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Mamdoh Eltouby

EXAMINATION BY MR. GROSSMAN:

Q. Good afternoon, Mr. Eltouby. My name is Lance Grossman. I am the attorney for M&T Bank. I represent M&T Bank in three of the related lawsuits, for which the plaintiffs are Chowdhury, Gabrys and Tuhin.

I will ask you a series of questions. If at any time you don't understand my question, sir, please advise me, and I will do my best to rephrase the question. If you answer the question, sir, I will interpret that to mean that you understood the question, and I will move on to the next question.

The same ground rules apply as when the other attorneys asked you questions. If you don't understand, please so advise me. If you need to take a break, please so advise me and I will do my best to try to accommodate you.

Obviously, you have now been here long enough to know that the court reporter takes down only verbal statements, not hand or head movements or gestures. I will ask you to verbalize your answers. Once again, the court reporter only takes down one person talking at a time. Please allow me to finish my question before you answer, and I will allow you to finish your answer before I start the next question. Are you okay with that?

A. Yes.

Q. We've been going for a long time over two days, sir. In deference to your counsel, I just want to make sure that you're okay to proceed with this deposition. I don't know how much longer it's going to be. I will try to get done as soon as I can, but I do want to make sure that after this extended period of time that you are capable of continuing with your deposition.

A. Yes.

Q. Sir, with respect to M&T Bank, do you remember when you were first introduced to M&T Bank?

A. Over ten years ago.

Q. And that was through which company?

A. Planet Motor Car.

Q. How were you introduced?

A. This is Jim Erickson.

Q. Mr. Erickson is the M&T representative in your district or in your area?

A. My district, yes.

Q. Did there come a point in time, sir, when you discussed with Mr. Erickson obtaining financing from M&T Bank?

A. No. It was opening for sign independent dealer.

Q. He was signing independent dealers?

A. Yes.

Q. And Planet Motor Cars was an independent dealer at that time?

A. Correct.

Q. At that time, did Planet Motor Cars have any other banks that they were using for financing?

A. Yes.

Q. Who were they at that time?

A. Capital One. TD Financial. Ally Bank.

Q. TD Bank, Ally and?

A. Capital One. And Credit Acceptance Corp.
Q. Sir, just a couple of questions as a background. Who is the person that would open up and review the mail that comes in to Planet Motor Cars?
A. We have a controller.
Q. Who was the controller?
A. She was named Julie King. [Phonetically]
Q. Who would be the person that would open up the mail in the years 2013 and 2014?
A. 2013 and 2014?
Q. Yes.
A. In which company?
Q. Let's start with Planet Motor Cars.
A. In 2013 and 2014 -- there was not exist in '14. It was only until '13.
Q. Okay. In 2013, who would open up the mail at Planet Motor Cars?
A. This is one of the secretaries.
Q. Secretaries?
A. Yes.

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Q. Did you review the mail that came in?

A. Yes, if any problem.

Q. What about New York Motor Group in 2013 and 2014; who would open up the mail there?

A. It was my daughter, Nada.

Q. Would you review the mail that Nada opened up and looked at?

A. Yes, if there's any problem, she tell me.

Q. Following up with what previous counsel had asked you, I don't think I was able to determine whether or not you were an officer -- not an owner, an officer -- at Planet Motor Cars at any time through today. Are you an officer?

A. No. I was only manager, a GM.

Q. GM, general manager?

A. General manager, yes.

Q. You were never an officer?

A. No.

Q. Were you ever an officer at New York Motor Group?

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A. Yes, I am.
Q. And you still are?
A. Yes.
Q. What job title do you have?
A. Officer.
Q. President, vice president, secretary?
A. Member.
Q. A member?
A. Because it's LLC.
Q. Who were the officers at Planet Motor Cars, if you were never an officer?
A. It was Mohamed Masaud and Magdy Eltouby.
Q. Do you know what their office or positions were? Do you know if one was a president, vice president, treasurer; do you know?
A. Magdy was like a secretary, and Mohamed was president.
Q. Did anyone else ever have authorization to sign any documents as president or secretary other than those two, as far as you know?

A. No.

Q. During the time that you were involved with Planet Motor Cars and New York Motor Group, was M&T Bank ever involved in advertising of any automobile?

A. No.

Q. Was M&T Bank ever involved in determining what the price of any automobile was to be advertised for?

A. No.

Q. At any time was M&T Bank ever involved in determining the price that any particular automobile was to be sold for?

A. No.

Q. During the time that you were involved, sir, with Planet Motor Cars and New York Motor Group, was M&T Bank ever involved in which cars were put out on the lot?

A. No.

Q. Were they ever involved directly with any of the floor planners that were involved?

A. No.

Q. Did M&T Bank ever have a copy of

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or review any of the contracts that either of those companies had entered into with the floor planners?

A. No.

Q. Sir, to try to save some time: Mr. Brener during his questioning of you asked you a series of questions regarding dealer agreements?

A. Mm-hmm.

Q. Is that a "yes"?

A. Yes.

Q. And you testified that you knew what a dealer agreement was?

A. Correct.

Q. And you had testified, I believe, when Mr. Brener asked you about some of the terminology in the Santander dealer agreement; do you remember that?

A. Yes.

Q. Were you aware if Planet Motor Cars and New York Motor Group had also entered into any dealer agreements with M&T Bank?

A. I know only New York -- um, Planet Motor Cars, yes.

Q. You are aware of a written dealer agreement --

A. Yes.

Q. -- between Planet Motor Cars and M&T Bank?

A. Correct.

MR. SIMON: I'm sorry, you also asked about New York Motor Group too; right?

MR. GROSSMAN: Yes. And he said he only was aware of one.

THE WITNESS: No. In New York Motor Group.

Q. You are not aware of an agreement with Planet Motor Cars?

A. Yes.

Q. I'm confused, I'm sorry. Let's start again. New York Motor Group --

A. Yes.

Q. -- were you aware of a written dealer agreement with M&T Bank?

A. Yes.

Q. Planet Motor Cars; were you aware of a written dealer agreement with M&T Bank?

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A. Yes.

Q. So there were two dealer agreements?

A. Yes.

MR. GROSSMAN: Let's have these marked.

(Document entitled "Dealer Agreement" is marked as Defendant's Exhibit D for identification, as of this date.)

(Document entitled "Dealer Agreement" is marked as Defendant's Exhibit E for identification, as of this date.)

(A discussion is held off the record.)

Q. Sir, I will show you two documents. One is labeled Defendant's Exhibit D and one is labeled Defendant's Exhibit E for identification.

MR. SIMON: Off the record.

(A discussion is held off the record.)

Q. I will show you Exhibits D and E

for identification. Exhibit D is PRFD000004 through and including 000007. And Exhibit E is PRFD000000 through and including 000003.

I will ask you to take a look at those documents, please.

MR. SIMON: You just said "PRFD"?

MR. GROSSMAN: Yes.

MR. SIMON: That stands for what, "PRFD"?

MR. GROSSMAN: That's a response to Plaintiff's Request For Documents.

MR. SIMON: That's from M&T Bank?

MR. GROSSMAN: Yes.

MR. SIMON: Okay, thank you.

Q. Sir, I want to make sure that you have had an adequate opportunity to review it with your counsel if necessary. Have you looked at these documents?

A. Yes.

Q. Do you recognize what these documents are?

A. I believe this is the agreement between --

Q. Well, just tell me which one

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you're looking at. Give me the exhibit letter.

A. Dealer agreement. Exhibit E.

Q. And that is a dealer agreement for Planet Motor Cars?

A. Yes.

Q. Do you see a signature on the last page, sir?

A. Yes.

Q. And the date, what was the date?

A. The date was 2004.

Q. March 22, 2004?

A. Correct.

Q. Do you see that it's signed, where it says "By" on the second line down?

A. Yes.

Q. Could you tell me whose signature that is?

A. I think it's my son.

Q. Your son's signature?

A. Yes.

Q. That's not your signature?

A. No. My signature is right there. [Indicating.]

Q. Your son signed this as president

of Planet Motor Cars in 2004?

A. Yes.

Q. He was working at Planet Motor Cars in 2004?

A. Yes, he did.

Q. And on Exhibit D -- the other dealer's agreement -- there is a signature on the last page?

A. This is my signature.

Q. As president of?

A. New York Motor Group.

Q. What is the date of this?

A. This is November 2012.

Q. Do these documents tell you when M&T Bank started to do financing for both Planet Motor Cars and New York Motor Group?

A. It started already from 2004 for Planet Motor Car, and 2012 from New York Motor Group.

Q. Just for my own edification, I want to ask you this: The signatures on the last page of each document you're saying are different signatures?

A. Yes.

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Q. Your testimony, sir, is that you never signed a dealer's agreement for Planet Motor Cars?

A. Yes.

Q. Again, without wasting a lot of time, Mr. Brener asked you a number of questions regarding what was contained in Santander's dealer agreement. I want to first ask you a general question. Do you believe that the dealer agreement I have shown you as D and E set out the duties and obligations of both Planet Motor Cars and New York Motor Group to M&T Bank with respect to financing?

A. Correct.

Q. And that the obligations contained in both of these documents were obligations that each of those companies were to abide by in order to remain in good standing with M&T Bank?

A. Yes.

Q. Looking, for example, at Exhibit E, paragraph number 9.

MR. SIMON: That's the one with Planet.

Q. Contained therein are warrants and representations that the dealership makes, stating in subparagraph J: "Each representation and warranty made therein by any Buyer, Guarantor or Other Owner is correct and complete." Do you understand that the dealerships were to provide correct information to the banks in order for the banks to keep these companies in good standing?

A. Yes.

Q. And that you were not supposed to forward any documentation with information that was incorrect to the banks?

A. Yes.

Q. And that if you did, sir, that the ramifications were that M&T Bank could cease doing financing with either of these companies?

MR. SIMON: Well, let me just concede that whatever the obligations upon each of the dealerships in D and E, if there were violations by the dealerships -- Planet or New York Motor Group -- that there were certain remedies set forth in D and E, and that the remedies set forth in there could be used by M&T to enforce its rights.

MR. GROSSMAN: Thank you, counsel. I will accept that.

Q. One of the provisions provides that if it's determined in the sole discretion of M&T that there was any material misrepresentation or warranty made to M&T Bank that they could compel you to buy back the contracts for which they provided financing?

A. Correct.

Q. Do you believe that both D and E were binding contracts on both Planet Motor Cars and New York Motor Group?

A. It's different binding.

Q. Do you understand that these were binding agreements on both of the companies?

A. Yes, binding. Different companies.

Q. Sir, did there come a point in time in which M&T Bank made certain demands on both Planet Motor Cars and New York Motor Group to buy back the loan obligations with respect to the Tuhin plaintiff?

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MR. SIMON: You mean, a repurchase demand?

Q. With respect to Tuhin or Gabrys, do you remember any demand being made?

A. When the defendant, which is Bruce Minsky, you know, he told me this is, your paper is very tight, 100 percent tight, you know. I don't know what the reason you buy the dealer back, you know. I ask him -- Jim Erickson -- and he tell me the bank doesn't want any headache, you know. So if I buy the deal back, that means I got to be out of the money and out of the car. That means is the bank gonna be calling the customer and tell, the car, we have nothing to do with you anymore, you have free car, you know. And then he keep the car for nothing, for free.

Q. Isn't it true, sir, that once a bank finances a transaction, they're out of the money if the customer does not make the monthly payments?

A. I don't know they making monthly payment or not.

MR. SIMON: I will stipulate, to

shorten the deposition. I will concede that if a repurchase demand is made by a bank generally under a dealer agreement of the type of Exhibits D and E that, upon the dealership repurchasing the loan from the bank, the dealership obtains from the bank all of its rights pursuant to the loan agreement, retail installment contract, etc. And that would entitle the dealership to itself proceed, instead of the bank, against the customer to enforce the loan agreement and also to repossess the vehicle. Is that satisfactory?

MR. GROSSMAN: I will accept that.

MR. SIMON: That's what you were getting at, right?

MR. GROSSMAN: Yes. Let me ask one or two more questions.

(Document on letterhead of M&T Bank to Planet Motor Cars, dated February 4, 2014, is marked as Defendant's Exhibit F for identification, as of this date.)

(Document on letterhead of M&T Bank, to New York Motor Group, dated February 4, 2014, is marked as Defendant's Exhibit G for identification, as of this date.)

(Document on letterhead of M&T Bank, dated November 20, 2013, is marked as Defendant's Exhibit H for identification, as of this date.)

Q. Just a couple of quick questions about Exhibits D and E. Are you aware that contained in these dealer agreements are provisions that the companies would be liable to pay M&T's legal fees that they spent enforcing the terms of these dealer agreements?

A. Can you --

Q. Why don't we do this.

MR. SIMON: I can maybe concede that whatever the documents say, and whatever remedies and requests that the bank has set forth in those, that my client does not dispute it.

MR. GROSSMAN: Okay.

Q. I just want to know if you were

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aware of that? Are you aware that there were provisions contained in these documents that stated that if M&T Bank had to expend legal fees with respect to any of the financing they provided for either of these companies, that the companies would be responsible for legal fees and expenses?

A. Yes, I know that.

Q. Okay. I'm going to show you three documents, sir, that have been labeled Defendant's Exhibits F, G and H. I will ask you to take a look at those, sir.

MR. GROSSMAN: Whenever he is done looking at them, let me know.

(A discussion is held off the record.)

Q. Sir, I have shown you three documents labeled Defendant's F, G and H. Exhibit H is PRFD -- plaintiff's request for documents -- 00008 and 00009.

G is PRFD -- plaintiff's request for documents -- 000010 to 000011 [sic].

H is PRFD -- it's upside down -- 000038 and 000039.

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Have you ever seen those documents before today, sir?

A. No.

Q. Let's look at where they were sent to. Let's look at F. Exhibit F was sent to Planet Motor Cars Inc., at 160-14 Hillside Avenue, Jamaica, New York 11432. Was that a correct address back on February 4, 2014?

A. February 4th, yes.

Q. But you're saying that you never saw that, if the document was sent to that address?

A. I never get it.

Q. Okay.

A. Never get it.

Q. Who would be opening the mail then?

A. That's the secretary over there.

Q. I did ask you if you would look at any of the mail that came in. And you said, if it was important mail, you would look at it; correct?

A. Yes.

Q. This is not important?

A. This is all the time, this is anything, a problem, Mr. Erickson, he always coming to the dealership.

Q. Well, this one was sent by regular mail. I just want to make sure your sworn testimony is that you're saying even though it was sent to the right address, you didn't see it?

A. How come this is -- you know, Mr. Erickson, he speak with me.

Q. This was not sent by Mr. Erickson. This was signed by Mr. Mariani, vice president and counsel of M&T Bank?

MR. SIMON: This was sent February of 2014 to Planet.

MR. GROSSMAN: Yes.

MR. SIMON: You're assuming that it got there. I think he testified, and you may want to inquire when Planet shuttered.

MR. GROSSMAN: I will look into it.

Q. Let's now go to G, which was sent on February 14, [sic] 2014. This was sent to

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New York Motor Group at 60-20 Northern Boulevard, Woodside, New York 11377.

A. I was not there.

Q. What do you mean, you weren't there?

A. This was shut down. There was no mail coming. All the mail was returned.

Q. Was returned?

A. Yes.

Q. You didn't have a forwarding address?

A. We don't forward to anyplace else.

Q. So when you shut down, you didn't put a forwarding address with the Post Office?

A. I never put anything, no.

Q. So anything that came in after whenever you say you shut it down would just go into a dead mail center somewhere?

A. I don't know. I never get the mail from New York Motor Group.

Q. So Planet Motor Cars, on February 14, 2014; that was still open?

A. No.

Q. So that and New York Motor Group

were both closed down on February 14, 2014?

A. Yes.

Q. So you never had a forwarding address for either of these?

A. No.

Q. Let's go back then to Mr. Tuhin's, which was sent on November 20, 2013. It was sent to New York Motor Group LLC. Exhibit H. It was sent to 60-20 Northern Boulevard, Woodside, New York 11377.

A. Mm-hmm.

Q. November 20, 2013; is that a date that New York Motor Group was still open?

A. Yes.

Q. This was also sent by electronic mail. Did you ever get an email of this letter?

A. Email?

Q. Yes.

A. Yes, could be we get an email, but Nada, she was removing emails all the time for the company.

Q. Who would look at your email?

A. It's Nada, my daughter, she was

looking for email.

Q. Did you, sir, ever see this letter in November of 2013?

A. Yes. Mr. Jim Erickson came. I explain him the situation. I tell him. He tell me, "Okay, why not take the car from the guy?" And I tell him, "Okay, I already tell the guy to bring the car to put it for sale here to help him to get out of the deal," you know.

But the customer, he come and he left the car over there without any title, without anything, so I can't do anything with the car. It's like a piece of metal, you know. It's not even give me consignment or write for me consignment letter, "This is okay, my name is Tuhin, and I give the car -- my car -- to New York Motor Group to sell my car" -- or this, or take care of my problem, or something.

Q. Sir, I appreciate that. I will get to that in a second.

Right now, I'm interested in this letter. You're saying that somehow you got it, whether Mr. Erickson gave it to you or you got it in an email?

A. Yes.

Q. Pursuant to the terms of this letter we made certain requests to you with respect to the Tuhin matter. Did you, sir, undertake to abide by your obligations under their dealer agreement by buying back the car or making M&T whole?

A. I don't do anything wrong to buy the deal back.

MR. SIMON: He is just asking what you did with respect to the letter, the demand in the letter.

Q. Did you do anything with respect to the demand in the letter, sir?

A. Let me read it first.

MR. SIMON: They made certain demands that are in this letter, do you see? That you pay lawyers, that you do certain other things. The question is: Did you do anything with respect to the demands in this letter?

Q. As counsel stated, did you, sir, on behalf of the company, do anything that was

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requested in this letter, Defendant's Exhibit H?

A. I gave it to my lawyer, which is Bruce Minsky.

Q. Other than giving it to your lawyer, did you, sir, or did the company do anything that was requested in the letter?

A. No.

Q. Why not?

A. Because I don't feel I did anything wrong with this customer.

Q. Did you put that in writing to M&T Bank at all?

A. No.

Q. Let me go forward. I want to reintroduce you to Defendant's Exhibits D and B from the 10/27/14 deposition.

MR. SIMON: The deposition of plaintiff Tuhin.

Q. Do you remember looking at these documents during questioning by counsel?

A. Yes.

Q. And issues were made as to why the numbers were broken down on Defendant's B, but

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were totalled in Defendant's D? Do you remember?

A. Yes.

Q. And you testified, sir, that as long as the bottom line number was correct, that's all that mattered. Do you remember saying that?

A. Yes.

Q. Sir, isn't it true that the dealership -- with or without the assistance of Mr. Tuhin -- was trying to defraud the bank in having both of these bills of sale signed?

A. Why defraud?

Q. Let me ask you something, sir. You have been in the business a long time; correct?

A. Mm-hmm.

Q. Do banks finance aftermarket add-ons?

MR. SIMON: You mean, after-sale.

Q. After-sale add-ons.

A. The reason we put it already in the, in --

Q. Let me just ask it: Do banks

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finance after-sale add-ons?

A. I don't know the finance, if this is all the item.

Q. So, sir, if a bank is only going to finance the purchase of an automobile, and on Defendant's B it says the automobile is $12,000, who would have to pay the add-ons?

MR. SIMON: Note my objection to the form of the question. Do you understand that question?

THE WITNESS: No.

MR. GROSSMAN: I will rephrase it.

Q. If M&T Bank received Exhibit B -- part of the package that you said finance companies get -- what would be the amount of the sale price of the car, based on Exhibit B, the car alone?

A. $12,000.

Q. And Exhibit D -- which is a copy of the bill of sale that the bank did get -- shows a purchase price of the car of how much?

A. $22,700 something.

Q. Let me ask you something. If on Exhibit B, the sales price was $12,000, all these additional add-ons -- which I will represent I believe total about another $10,000 -- were carved out of the purchase price and line-itemed like they are here; would the bank provide any financing to pay for those line items?

A. I'm not finance guy. You have to ask the finance guy, because I don't know if this is how this is working exactly with the finance -- if the bank taking the item or not taking the item. The bank allowed after-sale; right?

Q. Let me ask a question. Did M&T Bank make any requirement that any customer has to purchase any add-ons to get financing?

A. I have no clue. I don't know.

Q. Looking at Exhibit D, if Mr. Tuhin agreed with whoever was in your finance department to try to defraud the bank by saying, "Put everything into the purchase price so that the bank will finance the $22,000" --

MS. LINDERMAYER: Objection to form.

Q. If Mr. Tuhin wanted to try to

defraud the bank --

MS. LINDERMAYER: Objection to form.

MR. GROSSMAN: I understand. Let me finish the question. Then you can object to the form.

Q. If Mr. Tuhin wanted to try to defraud the bank by agreeing with the dealership to put all the line-item add-ons into the purchase price, so that when the bank saw the top-line purchase price, it believed that that was the purchase price of the car -- and not the add-ons -- would the bank have been actually financing the true amount of the car or financing the amount of the car plus the add-ons?

MS. LINDERMAYER: Objection to the form.

Q. Do you understand the question?

MR. SIMON: Can I make an inquiry? Do you understand the question?

THE WITNESS: Yes.

A. Mr. Tuhin, this could be this is his conspiracy, with Julio Estrada. Because he give him also -- I believe he also say he give him $600 cash on the side, you know, to make for him the loan. This is I hear from Mr. Tuhin or the disclaimer what he say, you know. I don't know what happened between both of them, you know, but I believe this is already we have signed everything and agree of everything.

Q. Do you know if both of these bills of sale were sent to M&T Bank?

A. I don't know.

Q. That would have only been the finance person?

A. I don't know.

Q. We talked about the VSI?

A. Yes.

Q. Do you know what that is?

A. This is required from M&T Bank.

Q. As far as you know, is that a legal charge on a --

A. Yes.

Q. Do you know why it's put on the contract?

A. Yes, I think it's about death.

About death. When the customer, he take the car, and he go to death, the company -- which is VSI -- pay the loan.

MR. SIMON: Just an inquiry. I was not involved in the case when the bank, M&T Bank, responded to other discovery requests by other counsel or earlier counsel. Mr. Weinstein, I think, was defending the Tuhin case. So I didn't see the responses. Is it Exhibit D that was received in the context of the financing plan?

MR. GROSSMAN: Yes.

MR. SIMON: But not Exhibit B?

MR. GROSSMAN: Correct.

MR. SIMON: So you understand what he's saying is that the dealership did not send B with the retail installment contract; it only sent D, where the after-sale products were all combined. And the only one shown separately was the extended service contract. Do you understand that?

THE WITNESS: Correct.

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MR. SIMON: Just so he understands that.

Q. You said that Mr. Tuhin came and you talked to him; you went to a 7-Eleven to try to resolve it, the issues?

A. Yes, I tried to resolve it.

Q. Did he ever say to you, "I never signed these documents"?

A. No.

Q. Did he ever say to you, "Someone forged my signature. I would never have signed these documents"?

A. No.

Q. Was he crying when he came to see you?

A. No. He's a man.

Q. Sorry?

A. He's a man.

MR. SIMON: Note my objection to the form. I believe that was the day of the second protest when they spoke for the first time.

Q. You said that the police showed up?

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A. Yes, the police showed up. And he get his license and put it on the table and they ask him, "Did you sign this?" He say "Yes."

Q. When you say "this," is that B and D?

A. Yes. And they ask him, "Did you sign this, did you sign this, did you sign this?" He tell them "Yes." They tell him, "Okay, you cannot stand in front of here. You go to court." That's it.

Q. Did you or anyone at the dealership say to him, "Hey, Mr. Tuhin, here's your signature. Why did you want the dealership to roll all the aftermarket add-ons into the purchase price? Were you trying to get something over on the bank"? Did anyone say that to him?

A. No.

Q. Did Mr. Tuhin say that he didn't have the money to purchase these aftermarket add-ons, but he somehow wanted to find a way to buy them?

MS. LINDERMAYER: Objection to

form.

A. Could be, yes.

Q. Do you understand that if Mr. Tuhin tried to do that, that he was defrauding the bank by raising the price of the vehicle and representing that was the amount of money he was seeking financing for?

MS. LINDERMAYER: Objection to the form.

Q. Do you understand the question?

A. Yes.

Q. Do you know the answer to that?

A. Could be. But I was not there.

Q. Okay, thank you.

I believe you had testified that when you tried to work it out with Mr. Tuhin, you offered to do something with his car. Can you just repeat what you attempted to do to resolve this?

A. Yeah, I tell him give me the car, let me see, I sell it back in my lot, and I get you out of the loan, you know. Then the second day, he bringing the car through in the lot without giving us any authorization letter, without giving us a title, without anything. And then he called to somebody. He calling me, I don't know, a paralegal, a lawyer, he was telling me you have to take the car back.

Q. Do you know who that lawyer was?

A. No.

Q. Was it a woman or a male?

A. Woman.

Q. Did she say where she was from?

A. No, she not -- I not even understand what she say what's her name.

Q. Did she threaten you in any way?

A. Yes.

Q. How did she threaten you?

MS. LINDERMAYER: Objection to form.

Q. Do you understand the question?

A. Yes.

Q. It's a simple question.

A. Yes, yes.

Q. Okay, you can answer.

A. You have to take the car back, otherwise if you not taking the car back, we calling the attorney on you, going to do this, the consumer, and all of this. She mentioned every department.

Q. Did this attorney say she was going to go to the media and try to create bad media for the dealership?

A. Yes.

MS. LINDERMAYER: Objection to the form.

Q. Did you understand that question?

MS. LINDERMAYER: Objection to form.

A. And she did already. Did already wrote something in New York Voice.

Q. Do you know who did that?

MS. LINDERMAYER: Objection to the form.

A. I don't know.

Q. Do you understand the question?

A. Yes.

Q. Okay, you can answer it then.

A. I don't know who did this, but this is coming from Tuhin.

Q. From Mr. Tuhin's attorney?

MS. LINDERMAYER: Objection to the

form.

A. Yes. Was writing already this is --

Q. Hold on a second. Did you understand the question?

A. Yes.

Q. Then you can answer.

A. Writing already this is car dealership tried to steal a poor driver, taxi driver, or something like this.

Q. Do you believe that the attorney who made those threats to you was making those statements in order to obtain publicity for herself and her client --

MS. LINDERMAYER: Objection to form.

MR. GROSSMAN: I'm not even done with the question, counsel. Allow me to finish. Can we read back what I started.

(The record is read back by the reporter.)

Q. Do you believe that the attorney who made those threats to you was making those statements in order to obtain publicity for herself and her client --

MS. LINDERMAYER: Objection.

Q. -- as opposed to seeking remedies for her client?

A. Yes.

MS. LINDERMAYER: Objection to the form.

Q. Sir, do you know that one of the claims in this case by Mr. Tuhin is that he suffered severe emotional distress; are you aware of that?

A. No.

Q. Did anyone tell you about that claim?

A. No.

Q. When you saw Mr. Tuhin, did he look like he was in severe emotional distress?

A. He was laughing with his friends. And he take me to the side, in 7-Eleven, you know, and talk to me. And I speak with him, even you know because he's a Muslim like me, and tell me Islamic brother, he says, "Listen" -- I tell him, "Listen, I help you, but this is not the way that we do it. That's not the way."

Q. Did he make any accusations against M&T Bank at that time?

A. No, I don't know.

Q. Did he appear upset?

A. No.

Q. Did he appear like he had gone without sleep for awhile?

A. No.

Q. Was he crying at that time?

A. No.

Q. Was he vomiting?

A. No.

Q. You said he was there with friends?

A. Yes.

Q. How many friends did he have with him?

A. About ten.

Q. Did he say that he wanted to keep the car if you reduced the price or gave him some add-ons or some additional --

A. I did offer him, I tell him, "I

give you like four or five-thousand dollar, and you keep the car." He tell me, "No, no, I cannot afford the payment, because the money is going to the bank is not shrinking. This is the payment." And I tell him also he can also reverse here the contract -- the $3,000 that's here -- he can return it if he don't want the warranty, he get full payment for the $3,000.

Q. And that would have been the only line-item that was contained in both B and D; correct?

A. Yes. And it look like he never buy car in his life. And he bring twice friends, you know, to go with him, to help him to see everything is correct and they tell him to pay because everything is correct, and he buying according to this. And he have a salesman who speak the same language -- Bengali, like him -- and he explain him everything before he leave. And then he still, he taking the car after one month, then he decided he want to return. After registered under his name.

Q. Did you know, sir, that one of the

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allegations in these three complaints that we're discussing are claims that the dealership and M&T Bank had undertaken actions which defrauded hundreds if not thousands of consumers? Are you aware of that allegation?

A. No.

Q. Is that a true statement; that the dealership and the bank have defrauded hundreds if not thousands of consumers?

MR. LANE: Objection to the form.

A. No.

Q. Let's talk about Mr. Gabrys.

A. Yes.

Q. Mr. Lane started questioning on that; do you remember him?

A. I don't even know how he look like.

Q. Do you have any idea or independent recollection of his transaction?

A. I don't know how he look like, if he's white, black, I don't know. I never meet him.

Q. Did you, sir, review his complaint in this lawsuit against the dealership?

Mamdoh Eltouby

A. Somebody tell me about him, but I never, I never know what's he look like. He never meet me.

Q. Let's talk about Ms. Chowdhury. Do you remember Nasrin Chowdhury?

A. Not really.

Q. Do you understand that there's an allegation contained in her lawsuit that there was forgery of the documents that she signed at the dealership?

A. How forgery?

Q. I just want to know if you were aware of any allegation.

A. Which way?

Q. That someone signed her name.

A. Somebody sign her name?

Q. Yes. Are you aware of that allegation?

A. I never hear this.

Q. Did you hear from anybody that anyone was making a complaint on behalf of Ms. Chowdhury -- whether it was herself or her son -- that her documents were forged?

A. No. She bought two cars or one

car?

Q. Either one, if you remember.

A. I not remember.

Q. I don't want to put anything in your head, if you have no independent recollection.

A. I not remember.

Q. Mr. Brener started asking you questions about the procedure undertaken by the dealership when looking to obtain financing -- whether it was for Santander or for M&T Bank. I know that you're not part of the finance department, but do you understand the basic concept of how the financing works?

A. Yes.

Q. You had testified that there was an application that an applicant fills out with information?

A. Right.

Q. I believe the counsel had asked you --

MR. SIMON: Off the record.

(A discussion is held off the record.)

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Q. Did you ever hear of the term, DealerTrack?

A. Yes.

Q. Do you know what DealerTrack is?

A. Yes, I know.

Q. Could you explain to me what DealerTrack is?

A. DealerTrack, this is fill up the application with the customer, or we, you know, and sometimes when we asking the customer questions, you know, then he, different answers when he sit down with the finance manager. How much he making every other week or every week, you know, that's being calculated exactly, because sometimes these people, the taxi driver, they don't want to give exactly the amount what they making, because it's a cash deal, you know. And then he ask him, "How much are you making in the month or a week?"

Q. Let me ask you, sir. Counsel showed you Plaintiff's Exhibit 16 --

A. Yes.

Q. -- earlier?

A. Yes.

Q. And you had testified that was the application. Whose handwriting is that?

A. Customer.

Q. And at the bottom, there's a signature?

A. Yes.

Q. Did Mr. Tuhin, when you saw him, ever state to you that he never signed Plaintiff's Exhibit 16?

A. He signed.

Q. He signed it?

A. Mm-hmm.

MR. SIMON: Are you referencing Exhibit 16?

MR. GROSSMAN: Yes. Can we have this marked, please.

(Document on letterhead of DealerTrack, referencing Shahadat Tuhin, is marked as Defendant's Exhibit I for identification, as of this date.)

Q. Sir, before I show you this, let's just go back to that phone call, the threatening phone call that you received from the female attorney.

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A. Yes.

Q. Did she tell you she worked for a firm, or for herself? Did she say anything like that to you on the phone?

A. She was very loud and she was very temper, and she not even introduce herself. She tell me, she threaten me. I say, "How you talk to me like this? You don't understand the automobile business."

Q. Did she ever say she was from a law firm?

A. She never -- she never say what is -- which law firm it is.

Q. Did she ever say that she worked for a not-for-profit organization?

MS. LINDERMAYER: Objection to form.

Q. Do you understand the question?

A. I think paralegals or something like this.

Q. Anything else?

A. No.

Q. Let's go back to what Mr. Brener asked you. I want to see if it holds true for

M&T. He talked about leading up to the application for financing. I want to make sure it's the same for M&T as it was for Santander. A customer walks into the facility, looks at a car, he negotiates a price with a salesperson?

A. Right.

Q. Is M&T involved in that in any way --

A. No.

Q. -- in the negotiations?

A. No.

Q. Is M&T involved in the final amount that is agreed to for the purchase price of the car?

A. No.

Q. Is there any New York law that says that you can't charge as much as you want for an automobile?

A. No.

Q. Can a person walk out of a showroom and say, "That's way too much money. I don't want to pay"?

A. Yes.

Q. Has that happened?

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A. A couple times.

Q. If a deal is made and the person says, "I need to obtain financing," what is the next step?

A. We take him to the finance guy and we start the procedure.

Q. Is one of the procedures, filling out Plaintiff's Exhibit 16?

A. Application.

Q. And it's signed by the --

A. Yes.

Q. -- customer?

There was some discussion about there being cameras in the facility?

A. Yes.

Q. Would the cameras have captured the signatures on the applications?

A. Yes.

MR. LANE: Can we just take a two-minute break?

MR. GROSSMAN: Sure.

(A discussion is held off the record.)

oOo

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Q. Sir, after the deal is struck, they're brought over to financing, if they have to finance the car?

A. Right.

Q. And the financing people who were involved in 2013 at the two companies were Shawn at one location, and Julio Estrada at another location?

A. Yes.

Q. You discussed paperwork. One of the pieces of paperwork is Plaintiff's Exhibit 16, or a document similar to that, which is an application in which the person writes down all their information and they sign it?

A. Right.

Q. Correct?

A. Mm-hmm.

Q. Does that document, the handwritten application, ever go to M&T Bank?

A. No, not really.

Q. What happens with that information that's on Plaintiff's 16?

A. The customer is signing this

outside. Meet with the finance guy, who run his credit first.

Q. Okay. Then if the credit comes back okay, then is a DealerTrack document prepared? Is that done on a computer?

A. And that application is started and filled up.

Q. Let's look at what has been marked as Defendant's Exhibit I, which is stamped 000007 through and including 000009. I will ask you to take a look at that, sir.

A. Yes.

Q. Do you recognize what that document is?

A. Yes.

Q. Is that a full copy of a DealerTrack agreement?

A. Yes, DealerTrack application.

Q. So what has been labeled as Plaintiff's Exhibit 17, that one-page document, that's not a full document?

A. What happens is here, also in the application here --

Q. Let me just ask you, is

Plaintiff's Exhibit 17 -- which was produced by plaintiff's counsel -- a full DealerTrack application?

MS. LINDERMAYER: Objection to form. No one ever said it was a full document.

Q. Do you understand my question? Is this a full document; Plaintiff's Exhibit 17?

MS. LINDERMAYER: Note my objection to form.

A. No.

Q. Looking at that, is that a full form?

A. Yes.

Q. Looking at the last page, do you see a signature on that page?

A. Correct.

Q. Do you know whose signature that could be?

A. The customer.

Q. Mr. Tuhin?

A. Yes.

Q. I know you're not an expert, sir, but if you look at the two signatures -- on

Plaintiff's Exhibit 16, and that document -- are they the same signatures?
A. Exactly the same.
Q. Does that mean that the person -- Mr. Tuhin -- signed that document?
A. Correct.
MS. LINDERMAYER: Objection to form.
Q. Do you know if Mr. Tuhin signed that document?
MS. LINDERMAYER: Objection to form.
Q. Do you understand the question?
A. Yes. Sure, this is the same signature.
Q. Did anyone in the whole wide world ever call you and say, "Hey, I signed that document, not Mr. Tuhin"?
A. No.
MS. LINDERMAYER: Objection to form.
Q. Now what happens with the DealerTrack document?
A. We have finance guy sit down with

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the customer and he start asking these questions to fill it up for the DealerTrack.

Q. What is DealerTrack? Is that an electronic system or a manual system?

A. No. DealerTrack is software. This is sent in the deal to all the lenders. You put all your lenders already in the DealerTrack, and you click M&T, you send it; TD Financing, send it. And you see the best approval.

Q. That's done electronically?

A. Yes.

Q. You say on the actual computer screen are the different lenders?

A. Right.

Q. If a lender decided to stop doing business with Planet or New York Motor Group, would they contact you, would they send you something in the mail, or did they just take your name off of the screen?

A. Exactly. It's going to disappear in the DealerTrack.

Q. Did there come a point in time in which M&T removed their name from your

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DealerTrack system?
A. Yes.
Q. When was that?
A. I not remember exactly the date.
Q. And that was for both New York Motor Group and Planet Motor Cars?
A. Yes.
Q. Was it sometime in 2014?
A. Yes.
Q. Was it after Mr. Estrada left the employ of --
A. Yes.
Q. The problems that you were having with Mr. Tuhin, Mr. Gabrys, Ms. Chowdhury, and even with Mr. Brener's cases -- Dong and Freire -- did they all take place during the time when Mr. Estrada was working for your company?
A. All the?
Q. The problems that came up. You said you started seeing problems in August?
A. Yes.
Q. The dates of Mr. Gabrys's, Mr. Tuhin's, and Ms. Chowdhury's complaints;

did they take place during the time that Mr. Estrada was working for New York Motor Group?

A. Yes.

Q. Once the different financial institutions are put onto the DealerTrack, does the DealerTrack document then get sent to these institutions electronically?

A. The DealerTrack sends electronically to M&T Bank.

Q. Does anyone from the dealership get on the phone and call the banks and say, "Hey, I'm sending you over an application"?

A. No.

Q. It's computers that are doing it?

A. It's everything computers.

Q. If the application for the financing is accepted, approved, does someone call up the dealer and say, "Congratulations, you got approval" --

A. No, no.

Q. -- or does the computer let you know?

A. The computer send and mail this is

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approved in the DealerTrack is got to be on a sign that say correct, it's like a check mark, like this, under the name of the "M&T." It say "M&T Bank," and then it say -- in green -- it says check mark. If this is not, it's gonna be "X."

Q. Would there be times that the DealerTrack would require additional information that is not contained on the DealerTrack application?

A. No. It's gonna be, gonna be different signs and clicking of the M&T and showing the structure for the deal.

Q. Other than the DealerTrack application in this case for Mr. Tuhin -- which is Exhibit I -- does the bank through the DealerTrack system review any other documentation coming from the dealership in order to approve or deny an application for credit?

A. No.

Q. And the information that is contained on the DealerTrack document comes from information that was placed on it by the

dealership; correct?
A. Correct.
Q. And under the terms of the dealer agreement, everything that M&T is supposed to see is supposed to be true and correct so that M&T can make an informed decision on whether to approve or deny the credit application; correct?
A. Correct. That's the reason we making the dealer, also the customer, sign the application.
Q. And that would evidence what?
A. He go through everything, every box, and see every box, and correct, and say correct and sign.
Q. Did Mr. Tuhin, when he saw you, ever state to you, "Hey, wait a second, someone covered up all those terms. I didn't see anything. I just signed the document blindly without looking at it"?
MS. LINDERMAYER: Objection to form.
A. No.
Q. Do you understand the question?

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A. He never say this.

Q. To the best of your recollection or knowledge, do you know if Ms. Chowdhury or Mr. Gabrys ever made any accusations that anyone at the dealership covered up the DealerTrack information before they signed the documents?

A. No.

Q. Once the application is approved, the financing has been approved at that time?

A. Yes.

Q. Up to the point that the application is provided in the DealerTrack -- whether it was for Chowdhury or whether it was for Gabrys or Tuhin -- was M&T Bank involved in any of the discussions or negotiations or representations that the dealership makes to the consumer about the credit application?

A. No.

MR. GROSSMAN: Can I have this marked, please.

(Document on letterhead of DealerTrack referencing Simon Gabrys is marked as Defendant's Exhibit J for

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identification, as of this date.)

Q. One other question I wanted to ask you before I go on. After the application is approved for the financing, what happens then? Is the car given to the customer?

A. The customer, we explain him every term, and when he agree and we sign, give him the car and we put the lien for M&T Bank in the car, and it's done deal, you know. This is how many deals -- you'll see how many deals in the period when Planet Motor Car on this is, and how many problem happen. It's zero. Put it this way: Zero.

Q. Let me ask you this. One of the things we had talked about is there comes a point in time in the transaction where the aftermarket add-ons are discussed?

A. Yes.

Q. And you did testify that that's a way for the dealership to make some money; correct?

A. Yes. Aftermarket, after-sale, everybody knows in every dealership this is the way for making money.

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Q. Did you, sir, to the best of your knowledge or anyone at your two dealerships ever tell Mr. Gabrys, Ms. Chowdhury, or Mr. Tuhin that in order to obtain financing from M&T Bank that they had to purchase aftermarket add-ons?

A. No way. No. We just only offer, offer to the customer. If the customer agree, he sign, and we offer him if you want to sell anything to the customer.

Q. If a customer says, "You know what, I don't want any add-ons. I want a bare-bones car," would any of your employees say, "You can't buy here, because the bank says you have to buy an add-on in order to get financing"?

A. No, never.

Q. There was some testimony that after the approval of financing by Santander that there would be some type of follow-up inquiry or discussion?

A. Yeah, this is with subprime.

Q. That's a requirement only for subprime loans?

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A. Only for subprime.

Q. As far as you know, is this a requirement by the DMV or any other agency that every bank do that after approval of financing is given?

A. No.

Q. I will show you what has been marked as Exhibit J for identification, sir, and ask you if you have ever seen that document? That is PRFD000022 through and including 000025. Do you see that? Looking at 000024, do you have any belief or understanding that that is not Simon Gabrys's signature on that document?

A. He not sign in front of me. He sign probably in front of the F&I.

Q. Other than these lawsuits, has anyone ever come to you and said, "That's not Mr. Gabrys's signature. He didn't sign that voluntarily"?

A. No.

Q. This again is a DealerTrack document. Is this similar to Defendant's Exhibit I for Mr. Tuhin, in that they would

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work the same way, they were electronically sent over to a number of banks?

A. Correct.

MR. SIMON: Gabrys was deposed in this case. Bruce Minsky was there. Were you there when Minsky deposed Gabrys? Did you attend?

THE WITNESS: No.

MR. SIMON: So you weren't there.

THE WITNESS: I was not there.

Q. I believe you testified yesterday or this morning that after the approval comes in, an interest rate is provided of what the bank is going to charge for the interest rate.

A. It's just only for subprime people.

Q. There was a discussion regarding the dealership being able to raise the interest one or two percent?

A. Oh, yes, yes.

Q. As far as you know, is that legal under New York law?

A. Yes.

Q. Do you know if any other

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dealerships other than your dealership do it?

A. All the dealers.

Q. This is known to M&T Bank?

A. This is everybody knows. M&T Bank, everybody knows. And the M&T Bank, in the approval, they send you in a note, you can market no more than two, no more.

Q. If you go over two points, what happens?

A. It's going to be returned the contract right away.

Q. In addition to the DealerTrack application, is a copy of the retail installment agreement and the bill of sale ever sent over to the bank?

A. No. We printed this separate.

Q. Sorry?

A. We printed this separate, the contract. Not from the DealerTrack, from another program. ADAM system. A-D-A-M.

Q. Does there come a point in the transaction in which the bank, in this case, M&T Bank, sees the signed retail installment agreement?

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A. No.

Q. What about with respect to the bill of sale?

A. No.

Q. It's just the DealerTrack documents that you send over to the bank?

A. I send the bill of sale and installment contract.

Q. If the DealerTrack is sent electronically, how is the retail installment agreement and the bill of sale sent to the bank?

A. Fax. And also overnight Federal Express.

Q. Other than those three documents, does the bank get anything else from the dealership with respect to the financing of any vehicle?

MR. SIMON: Note my objection to the form of the question.

A. No.

MR. SIMON: You're implying they're all sent at the same time.

MR. GROSSMAN: No.

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Q. Let's start again. The first document that gets sent over to M&T Bank in the process of trying to finance an automobile is which document?

A. This is the DealerTrack application.

Q. And that is Exhibits I and J?

A. Correct.

Q. For Mr. Tuhin and Mr. Gabrys?

A. Correct.

Q. Once the financing is approved --

A. Yes.

Q. -- what gets sent over to them?

A. We send the bank the installment contract, bill of sale, and a copy of the DealerTrack, and signed already, and what else? The driver's license, I think.

Q. So based on those documents, the bank never gets to see the handwritten application from the customer?

A. No. We get this one.

MR. GROSSMAN: Let's mark this.

(Document entitled "Notice of Lien" on letterhead of New York State

Department of Motor Vehicles is marked as Defendant's Exhibit K for identification, as of this date.)

Q. Before I ask you a question, I want to show you what has been marked previously as Plaintiff's Exhibit 12 for identification. You had seen that earlier, sir?

A. Yes.

Q. That document is on Planet Motor Cars letterhead. Do you see that?

A. Yes.

Q. To the best of your knowledge, sir, did M&T Bank have any involvement in preparing or approving that document?

A. No.

Q. I show you what has been marked as Defendant's K for identification and ask you to take a look at that, sir.

A. It's note of the lien.

Q. That document you said is called what?

A. Note of lien.

Q. Who prepared that?

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A. This is in website.
Q. Whose website?
A. From Motor Vehicle.
Q. The dealership prepares that?
A. No, we print it from the website of DMV and then he signed it. He acknowledged this is the car that have a lien from M&T Bank, and Mr. Tuhin also signed here.
Q. There's another name on that document, sir.
A. No.
Q. It says, "John DeSantos."
A. Where is it?
Q. "Signing for a corporation," in the middle, right above "Lien Information."
A. John DeSantos.
Q. Who is that?
A. This is the F&I title or something.
Q. The handwriting on this document, is it Mr. DeSantos or someone at the dealership, or is it Mr. Tuhin's?
A. Usually prepare the paper, the girl prepare, or the F&I. He write all the

paper, and then Mr. Tuhin sign it.

MR. SIMON: What you just marked as Defendant's K was also marked as Exhibit N at the Tuhin deposition on 10/27/14.

MR. GROSSMAN: Thank you.

Q. I will show you what was previously marked as Exhibit 17 at the deposition on 3/30/15, sir. I will ask you to take a look at that document, sir.

A. DealerTrack.

Q. It's a DealerTrack document?

A. Application.

Q. Do you know whose name is on that?

A. This is Chowdhury.

Q. Is there a signature on that?

A. Yes.

Q. Did you see Chowdhury sign that document?

A. Yes.

Q. You did?

A. Mm-hmm.

Q. Do you have any reason to believe that that wasn't her when she signed the

document?
MR. SIMON: Did you understand that question? He asked did you witness her signing that document?
A. I was there, you mean?
Q. Yes.
A. No, I was not there. But this is everybody, the rules for the finance, has to be signed, the application for the bank.
Q. Is one of the requirements at the dealership when they have these documents signed to take a copy of the driver's license of the person who signs the document?
A. Yes.
Q. So would Ms. Chowdhury's, Mr. Gabrys's and Mr. Tuhin's license have been copied at the time they signed the documents?
A. Sure.
Q. And that is done for what reason? Why is the license copied?
A. Because he cannot deny this is not his signature.
Q. One other question about the cameras. You said the hard drive erases every

eight days?

A. Yes.

Q. Did you also get disks or tapes for each day?

A. No. Because if any problem, usually any problem, we coming after two or three days, a week the mostly. Then I stop the -- I start them to tape or I start them to get the technician that he is going to get me a CD for this particular, you know, deal.

Q. So you would only burn a CD if there was someone who came in and said there was a problem; you wouldn't do it on a daily basis?

A. Correct.

Q. If no one came in, then every eight days the hard drive would be erased and gone over; correct?

A. Yes.

Q. You talked about a reserve account, sir?

A. Yes.

Q. How, if in any way, is M&T Bank involved with the reserve account?

A. No.

Q. Do they have any say in what --

A. They have nothing to do. It's just only market the reserve, only two point. Either you give it to customer or you not give it to the customer, you know.

Q. Does M&T Bank ever have any input in what you should do with --

A. No.

Q. -- any of your money?

A. No.

Q. Do you remember M&T Bank ever contacting you directly or through Jim Erickson, telling you any problems that anyone had with your dealership other than these lawsuits?

A. No. If any problem, always Jim Erickson coming to me and tell me the problem and I buy the deal back. This is rarely an error from us.

MR. SIMON: You have to listen to the question. He asked did you have any problems vis-a-vis any other customers from M&T, other than the ones in this lawsuit.

THE WITNESS: No.

MR. SIMON: Gabrys?

THE WITNESS: No.

MR. SIMON: Chowdhury and Tuhin?

THE WITNESS: No.

MR. SIMON: Did you understand the question?

THE WITNESS: Yes.

MR. SIMON: Why don't you give your answer now. He asked did you have any other problems with M&T Bank.

THE WITNESS: No.

MR. SIMON: Other than those three?

THE WITNESS: No.

MR. SIMON: Listen to the questions carefully. I'm sorry to interrupt, counselor.

MR. GROSSMAN: All right. I'm trying to expedite.

MR. SIMON: You must listen to the questions.

Q. As far as you know, sir, did M&T

Bank ever tell any of your finance people at any time how and what they could say to customers in order for them to try and buy a car at any of your dealerships?

A. No.

Q. Did you, sir, ever speak to anyone in the finance department?

A. No.

Q. Do you know if anyone at your company ever spoke to anyone in the finance department?

A. No.

Q. Your liaison was through Jim Erickson?

A. Yes. Sometimes only F&I would rehash the deal, that's it.

Q. You had mentioned that you purchased back two loans from M&T, but you never told M&T about that -- correct -- why you did it? One from Pennsylvania and one from Long Island?

A. Yes.

Q. But you never told them why you did it; you just did it?

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A. I just did it to avoid any problems.

Q. But you never told M&T; you just went ahead and did it?

A. No.

Q. M&T didn't tell you how to do it?

A. No.

Q. You did it --

A. By myself.

Q. When these finance documents were being gone over and signed, sir, was Nada ever in the room?

A. No.

MR. LANE: Off the record.

(A discussion is held off the record.)

Q. If Mr. Estrada stated that every single finance deal he did, Nada stood to the left of him on each deal; is that a correct statement?

MS. LINDERMAYER: Objection to the form, no basis for knowledge.

A. No.

Q. Did you ever tell Nada she had to

stand to Mr. Estrada's left during every finance transaction?

MS. LINDERMAYER: Objection to form.

A. He -- most of the time they tell her, "Listen, they speak Spanish, and this is my relative," or something. And they speak Spanish all the time with the people, and she not understand anyhow. Then she get out.

Q. Did M&T Bank ever contact you directly, sir, about these lawsuits?

A. Contact me?

Q. Yes. Other than through Mr. Erickson, anyone else?

A. No.

MR. SIMON: You mean, apart from the repurchase requests on these lawsuits?

MR. GROSSMAN: Yes.

MR. SIMON: You said, did they contact him. Do you mean, apart from those letters?

MR. GROSSMAN: Apart from the letters.

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Q. To the best of your knowledge, did M&T Bank undertake any wrongdoing with respect to the deal with Mr. Tuhin?

A. No.

Q. To the best of your knowledge, sir, did M&T Bank do anything wrong with respect to the deal with Mr. Gabrys?

A. No.

Q. To the best of your knowledge, did M&T Bank do anything wrong with respect to the deal with Ms. Chowdhury?

A. No.

MR. GROSSMAN: Let's mark this as the next exhibit.

(Document entitled "Retail Installment Contract," Bates-stamped PRFD000020 and 000021, is marked as Defendant's Exhibit L for identification, as of this date.)

(Document entitled "Retail Installment Contract," Bates-stamped PRFD000042 and 000043, is marked as Defendant's Exhibit M for identification, as of this date.)

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MR. SIMON: For the record, the retail installment contract had previously been marked as Exhibit C -- Defendant's Exhibit C -- at the deposition of Tuhin.

Q. Before we get to the exhibits, let me ask a couple of questions. Mr. Eltouby, the theft deterrent protection, the extended service contract or warranty, these aftermarket add-ons --

MR. SIMON: "After-sale" add-ons.

Q. Are these after-sale add-ons something that M&T Bank would get involved in with the customer in any way?

A. No. M&T have nothing to do with it.

Q. Looking at what has been previously marked as Defendant's Exhibit C from the deposition on October 27, 2014, do you recognize what that document is?

A. Yes. This is the installment contract.

Q. It has a logo at the top left?

A. Yes.

Mamdoh Eltouby

Q. Is that M&T?

A. M&T Bank.

Q. Does every bank have a similar, or does each bank have different --

A. No. M&T Bank have this kind of contract only.

Q. Looking at that document, sir, do you see a signature on there from the customer?

A. Yes.

Q. Did you see the customer sign that?

A. Yes.

Q. That is the customer's signature?

A. Correct.

MS. LINDERMAYER: Objection to the form.

Q. I'm going to show you --

MR. SIMON: Can I clarify? Tuhin identified a signature. Did you ask if he witnessed Tuhin signing it?

MR. GROSSMAN: Yes.

Q. I'm going to show you what has been labeled as -- and this is small, sorry -- Defendant's Exhibit L for identification.

Mamdoh Eltouby

MR. SIMON: Listen very carefully.

Q. It's PRFD000020 and 000021. You may have to squint. Do you recognize the form of that document?

A. Yes.

MR. SIMON: That's L?

MR. GROSSMAN: Yes.

Q. What is that document?

A. Installment contract also.

Q. Do you know who the customer was on that?

A. It look like this is Mr. Simon Gabrys.

Q. Did you witness Mr. Gabrys signing that document?

A. I was not in the room when he was signing.

Q. Did anyone ever tell you that he ever made any statements that he never signed that document?

A. No.

Q. Were you ever advised that he had ever made any complaints that the terms of that document were covered up when he signed it?

A. No.
Q. Did Mr. Gabrys ever contact you and say, "Hey, I signed a document where the terms were covered up"?
A. Never.
Q. There was some discussion about refinance and coming back in four months or eight months. Is there a reason that someone would refinance an auto loan?
A. They have subprime, a 400 score or 500 score, and the subprime bank they take advantage and they give them a high rate -- it's 24 percent, you know. Until they straighten the, you know, the account, straighten the scores, pay on time, pay everybody.
Q. Would the discussions with the customers about coming back to refinance be only with the subprime customers?
MS. LINDERMAYER: Objection to the form.
Q. Do you understand the question?
A. What's this?
Q. She objected. Did you understand

the question? If not, I'll rephrase it.
A. Ask it again.
Q. Would people at the dealership discuss refinancing with all customers of the dealerships, or only subprime customers?
MS. LINDERMAYER: Objection to the form.
Q. Do you understand the question?
A. Subprime.
Q. Did M&T Bank ever issue or grant any type of subprime loans?
A. No.
Q. When someone wants to refinance, do they have to refinance at the dealership?
A. Not really.
Q. Could they have gone to a credit union or a bank and tried to refinance?
A. Credit union. E-loan-dot-com. So many websites on the internet.
Q. By refinancing, would there be any detriment to the dealership if someone refinanced their loan?
A. No, it's no benefit for us. This is just only he lower his payments.

Mamdoh Eltouby

Q. Did M&T Bank ever tell you -- the dealership -- that they have to tell people they can't refinance M&T loans?

A. No.

Q. When a customer walked into either of the dealerships, was there any advertising for M&T Bank in the dealership saying that M&T was one of the lenders for the dealership?

A. No.

MR. GROSSMAN: I have no further questions at this time. I'm turning it over to Mr. Lane.

CONTINUED EXAMINATION BY MR. LANE:

Q. I have to follow up on some questions after Mr. Grossman. I'm going to put Defendant's Exhibit K back in front of you. Mr. Grossman asked you about the signature of the F&I representative on this document. You had identified it as the --

A. It's no signature for F&I, it's a name somebody write there.

Q. What is the name?

A. John DeSantos.

Mamdoh Eltouby

Q. Do you recognize that name?
A. You know, "J" -- for Estrada, sometimes he write his name "John DeSantos."
Q. And you knew that he would sometimes write his name as John DeSantos?
A. I don't know.
Q. Did you know that he would write his name as John DeSantos?
A. No. I hear only when he speak with one of the Spanish people and tell him, "Oh, my name is John DeSantos."
Q. Did you ever see documents signed by Julio Estrada while he was at the dealership that used the name, "John DeSantos"?
A. No.
Q. You never saw a document --
A. No.
Q. -- that had that?
A. No.
Q. Is this the first time that you saw a document from the dealership that has "John DeSantos" on it?
A. Yes.
Q. Today?

Mamdoh Eltouby

A. Yes.

Q. After M&T Bank funds a financing agreement, are you aware that M&T Bank will take steps to enforce that agreement if they need to in the future?

MR. GROSSMAN: Objection as to form.

Q. Once M&T gives you money for a loan contract, if a customer stops making payments on that loan contract, are you aware that M&T Bank will take steps to collect money from the customer under that loan contract?

A. From me?

Q. No, from the customer.

A. You got to ask M&T Bank.

Q. Are you aware?

A. No.

Q. You don't know?

A. I don't know anything.

Q. If I'm a customer and I sign a loan contract with your dealership --

A. Yes.

Q. -- and you sell it to M&T, and M&T gives you the money for the contract --

Mamdoh Eltouby

A. Correct.

Q. -- if I stop making payments on that contract, what are some things that M&T might do?

MR. BRENER: Objection to form.

A. It's not my business.

Q. Do you have any idea what M&T might do?

A. I have no idea what they do.

Q. Are you aware that M&T might demand that I make payment, or they will report late payments to my credit report?

A. I don't know.

Q. Are you aware that M&T would threaten to repossess the vehicle if I didn't make the payments?

A. I don't know.

Q. You don't know?

A. I don't know.

Q. In your 30 years of experience as a used car dealer, you are not aware of what steps banks may take to collect money under loan agreements?

A. Every bank is different.

Mamdoh Eltouby

Q. But you don't have a general sense of what a bank will do?

A. I have no idea. Could be banks sometimes write off. Could be the bank repossess the car. It's too many things. I don't know.

Q. So it's possible that a bank could decide to just write off --

A. It's possible.

Q. -- the loss?

It's possible that a bank could write off the loss of you stopping payment?

A. Correct.

Q. It doesn't have to be M&T Bank; any bank?

A. Any bank.

Q. So the bank that took assignment could write off the loss if I stopped making payments?

A. This is saying in general?

Q. In general.

A. The bank take a loss, yes.

Q. They could write off the loss --

A. They can write off the loss.

Mamdoh Eltouby

Q. That's one option?
A. Yes.
Q. Could they threaten me with repossession of the vehicle?
A. Could be.
Q. Could they make a report to my credit report that I'm now late on my payments?
A. Correct. Could be.
Q. So you do have some awareness that if a customer stops making payments under the loan agreements, the bank that took the loan will take some actions against the customer?
A. Correct.
Q. Okay, thank you.
In general, if the Better Business Bureau contacts one of the dealerships that you have worked at about a consumer's complaint, do you have a policy for handling Better Business Bureau complaints?
A. We always answer the complaint in writing.
Q. You always answer the complaint in writing?
A. In writing.

Q. Is that true at New York Motor Group? Did New York Motor Group always answer Better Business Bureau complaints in writing?
A. In writing, yes.
Q. Were you the person who reviewed every Better Business Bureau complaint about New York Motor Group?
A. No, I think the sales manager.
Q. Mohamed?
A. Dani -- I don't know how to spell it. Could be D-A-N-I. Mohamed, he don't know how to write English.
Q. So who was responsible for responding to the Better Business Bureau?
A. It was Dani or Angel.
Q. So Dani or Angel would respond to the Better Business Bureau?
A. Yes.
Q. But wasn't there a time when Dani did not work at New York Motor Group?
A. There was a time. Yes.
Q. And Angel stopped working at New York Motor Group after December of 2012; correct?

Mamdoh Eltouby

A. Yes. After, what's his name, Julio.

Q. After Julio started, Angel left?

A. Yes.

Q. Who was the sales manager after Angel left?

A. I not remember. But Dani, you know, a couple of them come in.

Q. I just want to be clear. At New York Motor Group, generally the sales manager reviewed and responded to Better Business Bureau complaints?

A. Yeah. They take care of any problem that come in.

Q. Were you ever made aware of Better Business Bureau complaints?

A. Yeah, they come in and tell me. And the Better Business Bureau was good, and they listen to the complainer and they listen also to both of them, and then they deciding, you know, they say this is very good. Because the discussion was with the complainer and with the dealership. And they see this is always the complainer liar, you know.

Mamdoh Eltouby

MR. LANE: I don't have any further questions.

(A discussion is held off the record.)

CONTINUED EXAMINATION BY MS. LINDERMAYER:

Q. Mr. Eltouby, did you watch the video taken of Mr. Tuhin signing the documents at your dealership?

A. No.

Q. Were you in the room when he signed those documents?

A. No. I say before I only watching the tape of the customer complain. The customer complain after one month.

Q. Well, actually, he complained two days later.

A. No.

Q. That's fine. That's not responsive to my question.

A. That's not true.

MS. LINDERMAYER: Mr. Eltouby, all you have to do is answer the question I'm asking you. I understand that perhaps you weren't made aware of it, but he did complain to your daughter. Now let's go back to what I was saying.

MR. SIMON: Just note my objection to anything that is not an inquiry.

MS. LINDERMAYER: Okay. Can you read back the answer, whether he answered the question about whether he was in the room with them.

(The record is read back by the reporter.)

Q. So were you in the room with Mr. Tuhin when he signed the documents?

A. No.

Q. Okay. Earlier you testified that that was his signature on the form. How would you know that?

A. Because the police officer coming when Mr. Tuhin come in, and he pull his driver license, and ask him of every signature, "Is this your signature?" He asking him. He say "Yes." He admit for all the signature that he signed.

Q. Did you testify earlier that you

Mamdoh Eltouby

saw him sign the document?

A. Excuse me, I explaining exactly --

Q. I heard your answer.

A. One second. I explaining exactly.

Q. Sir, you answered my question.

MR. SIMON: Just answer her question.

MS. LINDERMAYER: He did answer my question, and I just wanted to clarify.

Q. Did you testify earlier that you saw Mr. Tuhin sign the retail installment contract?

A. I -- I --

Q. I'm asking you: Did you testify earlier --

A. No, I never testified.

Q. -- that you saw Mr. Tuhin?

(The record is read back by the reporter.)

MS. LINDERMAYER: Please wait for me to finish the questions so we can have a clear record.

Q. Did you testify earlier that you saw Mr. Tuhin sign the retail installment

Mamdoh Eltouby

contract?

A. No.

Q. If you had provided that testimony, would that be incorrect?

A. [No response.]

Q. If you testified before that you saw him sign the contract, would that be incorrect?

A. Incorrect.

Q. You said earlier that Mr. Tuhin had friends with him in the room when he signed the contract. What is the basis for your knowledge of that?

A. This is the salesman, which is Dewan -- this is the one that interpret, is speaking Bengali. He saw him when he bringing another guy have more knowledge about cars and about finance.

Q. I'm asking how do you know that? Are you saying that Dewan told you?

A. Dewan. Dewan told me.

Q. So you don't actually know that; someone told you that?

A. Dewan told me that.

Mamdoh Eltouby

Q. But you don't actually know that he was in the room with people, with friends?

A. I was not with them.

Q. There are six plaintiffs in the case. Do you know how many of them speak only Spanish?

A. I have no idea.

Q. Does Mr. Tuhin only speak Spanish?

A. No. Bengali.

Q. Does Mr. Estrada speak Bengali?

A. No.

Q. You said earlier that Mr. Tuhin complained to you that when you did finally speak with him at the protest, he told you that the money is not shrinking. Do you remember providing --

A. No, I'm not sure.

Q. I have here that you said something like he was complaining that the money was not shrinking, the payments were not shrinking. Is that what you testified to?

A. No, no, no. This is when you -- when you, for example the $3,000 installment contract, he can already get the money back, you know. And this money is not go back to him. Go back to M&T Bank, you know. But the payment is still the same.

Q. Did he tell you that he thought his payments would get lower, and that's what he understood?

A. No. The term is getting lower, not the payments.

Q. I'm just asking what Mr. Tuhin told you. Did Mr. Tuhin tell you that he believed his payments were going to become lower?

A. No.

Q. At the 7-Eleven, at the second protest, you said you offered to give him about $4,000 or $5,000?

A. I did offer him this to, you know, return the contract -- the installment contract -- for him, and I give him some money also to keep the car, to keep the loan and this he going to be happy with, you know.

Q. What was the offer that you gave him at the 7-Eleven on the second day of the protest?

Mamdoh Eltouby

A. I tell him, "I return for you the installment contract, which is $3,000."

Q. I'm sorry, what?

A. Installment contract.

Q. The installment contract?

A. Yes. Not installment, I'm sorry, extended warranty.

Q. Okay.

A. Extended warranty was $3,000. Gonna be void this, and I help him with a couple dollars also with money.

Q. How much money?

A. I give him -- also I tell him, "I give you also from my pocket, $2,000."

Q. So was that the only offer that you made?

A. I make it offer this or --

Q. I'm sorry, was that the only offer you made?

A. No.

Q. Okay. What was the other offer that you made to him?

A. Also I tell him, if you don't want this, I take the car from you and put it in my

Mamdoh Eltouby

dealership and I sell it for you and I pay off the M&T Bank, and you go out of the deal.

Q. And that is only if you were able to sell the car?

A. We are selling cars.

Q. I'm just asking: Would you get him out of the M&T deal only if you were able to sell the car? Is that what the offer was?

A. My business only selling cars.

Q. I'm just asking you if --

A. Yes.

Q. -- your offer to Mr. Tuhin --

A. Yes.

Q. Okay. And ended up selling the car for less than the amount of the loan to M&T?

A. I don't think this is selling for less.

Q. I just want to know what the offer you made to Mr. Tuhin allegedly was?

A. I don't know. I tell him, I'm helping you selling the car and pay off the loan. That's it.

Q. Okay, but if you were not able to

sell the car for the amount of the loan --
A. There's not such "if."
MR. SIMON: Note my objection about what if.
Q. Mr. Eltouby, you're not answering my question. What I'm asking you is the offer that you made to Mr. Tuhin that day. You said that you offered to sell the car and use that money to pay off the M&T loan. If you were not able to sell the car for the full amount of the M&T loan, what would you have done? What was the offer in that situation?
MR. SIMON: Note my objection. I don't know if that was even discussed. Did you discuss that?
MS. LINDERMAYER: Richard, he just testified that he said that.
Q. Mr. Eltouby, if I'm asking you a question that doesn't make sense, please let me know and I can rephrase it.
MR. SIMON: Your question is: What if he couldn't realize enough in the sale to satisfy the loan?
MS. LINDERMAYER: I'm trying to

understand what the offer was.

MR. SIMON: I think he's answered it. You can answer again.

A. This is "if," and I cannot answer for you for something that's calling "if."

Q. Okay, so it was an offer that was --

A. This mean you want to drag me as something this is I not say it.

Q. So when you made the offer to Mr. Tuhin, you had not contemplated what would happen if you were not able to sell the car for the full amount; is that right?

A. I tell him already I help him, you know. He's a Muslim guy like me, and I tell him I help him.

Q. I hear you saying that, and I'm just trying to understand what you mean by "Help him."

A. To get him out of the loan.

Q. Did you ever -- sir, would you mind not checking your phone while we're in a deposition?

A. I not checking the phone, but the

bank is --

MS. LINDERMAYER: Okay, we're really almost done, Mr. Eltouby. I'll wait.

Q. At some point you were sued by Mr. Eltouby -- by Mr. Tuhin, excuse me.

A. Can I --

MR. SIMON: Let her just finish. We're almost done.

THE WITNESS: I have an important call.

MR. SIMON: Give her a couple more questions.

MS. LINDERMAYER: I'm finishing the questions I have left.

MR. SIMON: Go on.

Q. Did you ever offer to help Mr. Tuhin, did you ever convey an offer to help Mr. Tuhin through your attorney? Did you ever make an offer to help Mr. Tuhin, except for the date of the protest?

A. Except for the? Yeah, I tried to help negotiate with him, but --

Q. Except for the day of the protest,

I'm asking.
MR. SIMON: She's asking --
MS. LINDERMAYER: Richard, I can clarify it myself.
Q. Except for the day of the protest, did you ever make an offer to relieve Mr. Tuhin from his loan?
A. After this?
Q. Except for the day of the protest, except for that second day.
A. I didn't see him. He contacted me. I believe you -- this was the lawyer, or somebody else.
Q. I'm asking the questions here.
MR. SIMON: Just answer the questions.
MS. LINDERMAYER: Richard, it's okay, I've got it. We don't have a lot of time.
A. No.
Q. Okay, thank you.
As a businessman, if someone comes to your business and is defrauded by someone who works for your business, do you believe

that you're responsible for that?

A. We not frauded nobody.

MR. SIMON: I object.

Q. If you understand the question, you can answer.

A. We not frauded nobody.

Q. I'm just asking if -- if.

A. There's no such thing, "if."

Q. You know what, this is not a metaphysical conversation, Mr. Eltouby. I'm asking you a question, and you need to answer it. Lance -- the attorney from M&T -- asked you many conditional questions using the word "If," and there was not a problem there.

I'm asking you as a businessman, if someone comes to your business and is defrauded by someone who works for you, do you believe you are responsible for fixing that?

MR. SIMON: Note my objection to the form of the question.

Q. You can answer if you understand the question, and if you don't understand it, I can rephrase it.

A. No, I not understand what you

Mamdoh Eltouby

mean.

Q. As a businessman, if someone comes to your business and is defrauded there by someone who works for you, do you believe that you are responsible at all?

MR. SIMON: Note my objection to the form. Can you answer this?

MS. LINDERMAYER: Richard --

A. I cannot answer this, because you say "frauded." We're not frauded anybody.

Q. Right now you're speaking to me, Mr. Eltouby. I'm saying if it happens that someone came to your business and was defrauded by someone who worked for you -- they were lied to, and lost money as a result -- do you believe as a businessman that you would have some responsibility?

A. My responsibility only --

Q. It's a yes or no question.

A. If the customer is paying some money and somebody take from him the money and run from the business, my business, I give him the money back.

Q. So are you saying that you would

Mamdoh Eltouby

only be responsible if someone stole money?

A. Stole money from a customer.

Q. But if they defrauded them in some other way, you would not be responsible?

A. How defrauded?

Q. I'm just asking yes or no? Yes or no?

MR. SIMON: Are you asking him as a matter of law or as a matter of conscience? Make it clear.

MS. LINDERMAYER: As a matter of belief, just what he knows.

A. Why you trying to put in my mouth frauded?

MR. SIMON: If you can answer the question, just answer it.

A. We not frauded nobody.

Q. Sir, you're not answering my question.

A. We not fraud nobody.

Q. And I'm going to sit here all day until you answer my question. You said before that if someone stole money, that you would feel responsible. Does that mean if someone

Mamdoh Eltouby

was defraudded in a way that did not involve a theft of money, that you would not feel responsible?

A. This is frauded, the same like theft; right?

Q. No. So if someone was lied to at your dealership and ended up with a loan that they never agreed to, would you feel that it was your responsibility?

MR. SIMON: Note my objection to the form. Can you answer that?

THE WITNESS: No.

MR. SIMON: He can't answer it.

MS. LINDERMAYER: That is not an acceptable answer. You either don't understand it --

MR. SIMON: Well, I'm sorry. We're leaving. Do you have any more questions?

MS. LINDERMAYER: Absolutely not.

Q. This is a very straightforward question, and I don't see what the problem is.

A. You telling me frauded. I not frauded.

Mamdoh Eltouby

Q. Let me rephrase it then. If someone comes to your dealership and one of the people who works at your dealership lies to them --

A. Lying?

Q. Yes, lies to them, and they end up with a loan that they did not agree to; do you believe that you're responsible?

A. The customer only not sign and say, "No, I don't want take the loan."

Q. This is a yes or no question, Mr. Eltouby.

A. "I don't want take the loan" -- sure, he gonna go walk free, nobody can tell him anything.

Q. Mr. Eltouby, this is a yes or no question.

MR. SIMON: They can finish this in my absence. They can keep going on. I'm leaving. I'm out of here. I'm history.

Q. Mr. Eltouby, this is a yes or no question.

A. My lawyer is leaving.

MS. LINDERMAYER: Richard --

MR. SIMON: Bring it up to the magistrate.

MS. LINDERMAYER: I absolutely will bring it up to the magistrate that you have left less than seven hours into this deposition, while I'm in the middle of asking your client a question. This is outrageous. I will absolutely tell Judge Gold.

Please let the record note that Mr. Simon just got up and left. Are you sitting back down?

MR. SIMON: I'm getting that rubber band.

MS. LINDERMAYER: Okay. I will make a record as soon as he leaves.

MR. SIMON: Make a note it's seven minutes to 6:00.

MS. LINDERMAYER: Please let the record note that at 5:52, Richard Simon indicated that he would not continue sitting for this deposition, got up, grabbed his things, and is in the process of leaving the room with his client also with him, and as a result, we are not able to finish this deposition.

MR. SIMON: Okay. Have a nice day.

(Time noted: 5:54 P.M.)

A C K N O W L E D G M E N T

STATE OF NEW YORK)
: Ss
COUNTY OF)

I, MAMDOH ELTOUBY, hereby certify that I have read the transcript of my testimony taken under oath in my continued deposition of April 28, 2015; that the transcript is a true, complete and correct record of my testimony, and that the answers on the record as given by me are true and correct.

____
MAMDOH ELTOUBY

Signed and Subscribed to
before me, this ____ day
of ________________, 2015

____
Notary Public, State of New York

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EXHIBITS

PLAINTIFF'S	DESCRIPTION	PAGE
6	Document entitled "Vehicle Service Contract," referencing customer Gaganmeet Singh Bains	304
7	Multipage document entitled "Consent Order," referencing Gaganmeet Singh Bains	315
8	Document with heading of New York Motor Group, referencing Anwar Alkhatib as buyer, dated 12/18/12	331
9	Copy of the first page of the retail installment contract for Boris Freire that Mr. Freire retained a copy of personally	358
10	Photocopy of official check in the amount of $7,500	362
11	Photocopy of advertisement for a Honda Odyssey	381
12	Document on letterhead of Planet Motor Cars	390

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15	Document referencing Boris Freire and Miriam Osorio	417
16	Document on letterhead of New York Motor Group in regard to transaction with Shahadat Tuhin	472
17	Document on letterhead of DealerTrack regarding Shahadat Tuhin	474
18	Receipt document referencing NY Motor Group in regard to transaction with "Zheng Dong"	557
19	Contract document referencing NY Motor Group in regard to transaction with "Zheng Dong"	558

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A	Document with heading of Santander Consumer	502
B	Multipage document, the top page being a letter on letterhead of LeClair Ryan, dated March 14, 2014	545
C	Letter on letterhead of LeClair Ryan, dated June 23, 2014	546

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D	Document entitled "Dealer Agreement"	583
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H	Document on letterhead of M&T Bank, dated November 20, 2013	592
I	Document on letterhead of DealerTrack, referencing Shahadat Tuhin	620
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K	Document entitled "Notice of Lien" on letterhead of New York State Department of Motor Vehicles	640
L	Document entitled "Retail Installment Contract," Bates-stamped PRFD000020 and 000021	651
M	Document entitled "Retail Installment Contract," Bates-stamped PRFD000042 and 000043	651

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DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION	PAGE
BY MR. LANE:	
Insert full name and contact information for Kevin, the salesperson at New York Motor Group who spoke Chinese	343
Insert Angel Santiago's contact information	344
Insert contact information for Mohamed, the sales manager at the dealership	344
Produce copies of any piece of paper or files retained by the dealership on any person who worked for them, including a personnel file, contact information, Social Security numbers, IRS papers, performance reviews and proof of payment, for every employee who worked at New York Motor Group between 2010 and the present	345
Insert contact information for the accountant identified herein as Ahmed Youssef	349
Insert name and contact information for the payroll company that processed payroll for New York Motor Group; if not able to provide that, defendant is requested to authorize Mr. Youssef to provide name of the payroll company	350
Produce all bank records for New York Motor Group, and to the extent that Mr. Eltouby has control over it, provide all bank records for Planet Motor Cars from 2010 to the present	368
Insert the amount of salary that Mr. Eltouby drew from Planet Motor Cars when he worked there, including dates that he took that salary	375

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DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION	PAGE
Insert amount of salary Mr. Eltouby drew from New York Motor Group	376
Provide copies of all contracts signed by either New York Motor Group or Planet Motor Cars with AUL for service contracts regarding any customer from 2010 to the present	405-406
Produce copies of the contracts that New York Motor Group or Planet Motor Cars had with any vendor of after-sale products as identified by Mr. Eltouby, regarding any customer from 2010 to the present	405-406
Insert name of the company that maintained the camera system described herein at New York Motor Group	441
Insert name and contact information of landlord of 60-20 Northern Boulevard, where New York Motor Group was previously in operation	450
BY MS. LINDERMAYER:	
Insert name of consumer from Pennsylvania as described herein, whose loan Mr. Eltouby testified was bought back by the dealership from M&T Bank	468

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C E R T I F I C A T E

STATE OF NEW YORK)
) Ss:
COUNTY OF NEW YORK }

I, MEDEA EDER, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That MAMDOH ELTOUBY, the witness whose continued examination is hereinbefore set forth, was duly sworn by me and that this transcript of such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of May 2015.

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MEDEA EDER

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

--x

ANWAR ALKHATIB, Plaintiff, -against- NEW YORK MOTOR GROUP LLC, et al., Defendants.	Case No. 13-CV-02337 (ARR)(SMG) ACTION #1
SHAHADAT TUHIN, Plaintiff, -against- NEW YORK MOTOR GROUP LLC, et al., Defendants.	Case No. 13-CV-5643 (ARR)(SMG) ACTION #2
BORIS FREIRE and MIRIAM OSORIO, Plaintiffs, -against- NEW YORK MOTOR GROUP LLC, et al., Defendants.	Case No. 13-CV-7291 (ARR)(SMG) ACTION #3
SIMON GABRYS, Plaintiff, -against- NEW YORK MOTOR GROUP LLC, et al., Defendants.	Case No. 13-CV-7290 (ARR)(SMG) ACTION #4

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(Caption continued on next page.)

VIDEOTAPED EBT OF: NADA SMITH

DATE: February 26, 2015
TIME: 10:30 a.m.

-----------------------------------x
ZHENGHUI DONG,
Plaintiff,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendants.

Case No. 14-CV-2980 (ARR)(SMG)

ACTION #5

-----------------------------------x
NASRIN CHOWDHURY,
Plaintiff,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendants.

Case No. 14-CV-2981 (ARR)(SMG)

ACTION #6

-----------------------------------x

VIDEOTAPED DEPOSITION of the Defendant, NEW YORK MOTOR GROUP LLC, by NADA SMITH s/h/a NADA ELTOUBY, pursuant to Order and Notice, held at the law offices of MFY LEGAL SERVICES, INC., 299 Broadway, 4th floor, New York, New York, on February 26, 2015, commencing at 10:30 A.M., before MEDEA EDER, a shorthand reporter and Notary Public within and for the State of New York.

REINIG REPORTING, INC.
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New York, New York 10016
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-continued-

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ALSO PRESENT:
MAMDOH ELTOUBY, Defendant

oOo

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties hereto, that filing, sealing and certification are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any Notary Public with the same force and effect as though signed and sworn to before this Court.

N A D A S M I T H , having been first duly sworn by a Notary Public within and for the State of New York, stated her address as 3896 Michigan Avenue Road NE, Cleveland, Tennessee 37323, was examined and testified under oath as follows:

oOo

EXAMINATION BY MR. LANE:

Q. Good morning, Ms. Smith. My name is Peter Lane. I'm of counsel to Schlanger & Schlanger, the firm that represents five of the plaintiffs in these related cases. I represent all plaintiffs except Mr. Tuhin.

Before we get into some more detailed questions about these cases, I just want to find out have you ever testified at a deposition before?

A. No.

Q. Have you ever testified in a court case before at all?

A. No.

Q. What is going to happen here is we are going to go through a series of questions with you about these lawsuits and about the transactions that were involved in the lawsuits.

A. Okay.

Q. The court reporter is going to be taking down everything that I ask and everything that you say. In addition, we are videotaping the testimony, so you do need to speak clearly as your attorney had indicated and you need to answer all questions audibly. Don't shake your head to indicate "Yes" or "No," because the court reporter can't take that down.

A. Got it.

Q. During this deposition you are under oath. Do you know what that means?

A. No.

Q. Essentially, if you do not answer each question truthfully you can be certainly held in contempt for making false statements under oath, and there could be other consequences. So you do need to speak clearly, answer each question honestly, and if you don't understand the question please ask me to repeat it.

A. Okay.

Q. So if I do ask you a question and you don't understand it, I assume that you will ask. If you don't ask, I assume it will be reasonable for me to continue to assume that you do understand the question.

A. Okay.

Q. Let me begin. Can you just state your full legal name.

A. Nada Smith.

MR. SIMON: I'm sorry, I didn't hear that. You've got to keep your voice up so everybody can hear, okay?

THE WITNESS: Okay.

MR. SIMON: Can you say that again?

THE WITNESS: Nada Smith.

MR. LANE: Mr. Simon, I'm just going to make sure that this is on the record right from the get-go.

You absolutely need to be here because your clients are being deposed. You can cite your objections. As you know, that is certainly your clients' right to have you here and make those objections. I do ask that you keep -- that you don't continue to interrupt the depositions by speaking directly to your client, or do anything other than raise an objection. Thanks.

MR. SIMON: I just told her to keep her voice up, because the first answer she gave, I couldn't hear.

MR. LANE: That's exactly what I'm talking about. Can you just let me continue, please.

Q. So your full legal name is Nada Smith?

A. Correct.

Q. Is "Smith" your married name?

A. Yes.

Q. What is your family name?

A. Eltouby.

Q. Could you spell that?

A. E-L-T-O-U-B-Y.

Q. How old are you?

A. Twenty-five.

Nada Smith

Q. Please tell me your date of birth.

A. 8/1/89.

Q. And you are married?

A. Correct.

Q. I know you just told the court reporter this, but could you just repeat your address for me?

A. Sure. It's 3896 Michigan Avenue Road Northeast, Cleveland, Tennessee. Zip code, 37323.

Q. How long have you lived at that address?

A. About seven months.

Q. Where did you live before that?

A. At home.

Q. Where was that?

A. Do you want me to state the address?

Q. Yes, please.

A. 17A Threepence Drive.

Q. The name of the road is "Threepence"?

A. Yes. Spell out "three."

Q. Three?

Nada Smith

A. And pence, P-E --

Q. P-E-N-C-E?

A. Yes. Melville, New York. 11747.

Q. Did you live anywhere before that?

A. No.

Q. Whose house is that?

A. My dad's.

Q. And you grew up in that house?

A. Correct.

Q. When did you get married?

A. June of 2014.

Q. What is the highest level of education that you have?

A. High school diploma.

Q. Where did you go to high school?

A. Half Hollow Hills High School East.

Q. Where is that located?

A. In Dix Hills, New York.

Q. Let me ask you this: Did you prepare in any way for the deposition today before you came here?

A. I spoke with my attorney. But other than that, no.

Nada Smith

Q. Did you speak with anyone other than your attorney?

A. No.

Q. Did you review any documents?

A. No.

Q. So you're now living in Tennessee?

A. Correct.

Q. Do you drive?

A. No.

Q. Do you have a state ID of any kind?

A. Yes.

Q. Do you have it with you?

A. Yes. I have it with my maiden name.

Q. Could I see a copy of that?

A. Yes.

MR. SIMON: Can I see that first? It's just an ID card.

THE WITNESS: Mm-hmm.

MR. LANE: This is your New York State ID. Would you mind if we made a photocopy of this? Actually, we would like to make a photocopy of this.

MR. SIMON: Do you really need a copy of it?

MR. LANE: Yes.

THE WITNESS: Why do you need a copy of that, if you don't mind me asking?

MR. LANE: Actually, you can't ask questions and I don't have to answer questions.

THE WITNESS: Okay.

MR. SIMON: Do you want to mark it as an exhibit?

MR. LANE: Sure, yes, let's do that. We'll make a copy and then we'll mark it as an exhibit.

We are making a copy of Ms. Smith's New York State identification card and we will mark it as Plaintiff's Exhibit 1.

(Copy of Ms. Smith's New York State identification card is marked as Plaintiff's Exhibit 1 for identification, as of this date.)

(A discussion is held off the